

50/100

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**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

MP-249/97 ordersheet pg-1

Disposed Date-10/9/97

MP-128/96 ordersheet pg-1

Disposed Date-27/9/96

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SECTION OFFICER (Judl.)

CAT. Gdwarah

108/96

CP No.

Mr. Tajmure Ali & F.oss.

APPLICANT(S)

Union of India

RESPONDENT(S)

Mr. J. L. Sengupta

Advocate for the applicant.

" M. Chanda

Mr. S. Ali & C. G. S.

Advocate for the Respondents.

Office Notes

Date

Court's Orders

This application is in  
form and within time  
C. F. of Rs. 50/-  
deposited vide

IPO No 3463/3

Dated 20.6.96

1/c Dy. Registrar, 25/6

28-6-96

Leave note of Mr. M. Chanda.

Learned Sr. C.G.S.C. Mr. S. Ali  
for the respondents. Adjourned  
for consideration of Admission to  
19-7-96.

pg

Member

19.7.96

None present. List for admission on 24.7.96.

pg

Member

24-7-96

Learned counsel Mr. M. Chanda  
for the applicant. Learned Sr.  
C.G.S.C. Mr. S. Ali for the respondents.

Applicants are allowed to  
join in a single petition in  
terms of Rule 4(5)(a) of CAT  
Procedure Rules 1987.

Heard Mr. M. Chanda for  
Admission. Application is admitted  
subject to the decision of limitation  
at the final hearing.

Issue notice on the respondents by registered post.

contd/-

1.8.96

Notice issued to the  
respondents vide D. No.  
2338 dt. 1.8.96

Don

24-7-96 Written statement within 6 weeks.

List for written statement and further order on 30-8-96.

There shall be no bar for the respondents to consider the appointment of the applicants in the existing or future <sup>vacancies</sup> during the pendency of this O.A.

lm

Member

30.8.96

Mr. M. Chanda for the applicants.

Mr. S.Ali, Sr. C.G.S.C. "for" the respondents.

Written statement has not been submitted.

List for written statement and further order on 27.9.96.

Member

27-9-96

Learned counsel Mr. J.L. Sarkar and Mr. M. Chanda for the applicant. Sr. C.G.S.C. Mr. S. Ali for the respondents. Written statement has not been submitted. Vide order of to-day in M.P. 128/96 to be listed for written statement and further order on 15-11-96.

Member

15.11.96

List for written statement and further orders on 10.12.96 as requested by Mr S. Ali, Sr. C.G.S.C.

3  
O.A. No. 108 of 1996.

10.12.96

Mr. M.Chanda for the applicant.

Mr. S.Ali, Sr.C.G.S.C. for the respondents.

Written statement has been submitted with copy to the counsel of the applicant. Case ready for hearing.

List for hearing on 2.1.1997.

*ba*  
Member

12-12-96

trd

*W/S filed by 1m*

10.2.97

Let the case be listed on 18.2.97 for hearing.

*ba*  
Member

*SLB*  
Vice-Chairman

17.2.97

trd

*The case is ready as per W/S for hearing.*

18-2-97

Adjourned to 19-3-97. for hearing.

*ba*  
Member

*SLB*  
Vice-Chairman

*or 17/2*

lm

*W 20/2*

21-2-97

19.3.97

On the request of the learned counsel for the parties let this case be listed for hearing on 16.4.97.

*ba*  
Member

*SLB*  
Vice-Chairman

nkm

16.4.97

On the prayer of Mr. J.L.Sarkar, learned counsel appearing on behalf of the applicants hearing is adjourned till 28.4.1997.

List on 28.4.1997 for hearing.

*ba*  
Member

*SLB*  
Vice-Chairman

trd

*2/4*

*18/7*

*Rejoinder filed on the part of Respondent as Applicant.*

*1) W/S stated - has been filed.  
2) Notice duly served on op.  
NO 1.  
3) Service Reports on Respondents  
no 2-4 are still awaited.  
4) Rejoinder has been filed.*

28.4.97

Heard Mr J.L.Sarkar with Mr M.Chanda, learned counsel for the applicants and Mr S.Ali, learned Sr.C.G.S.C for the respondents. Hearing concluded.

Judgment delivered in open court, kept in separate sheets. The application is partly allowed. in terms of the order. No order as to costs.

  
Member

  
Vice-Chairman

16.5.97

Copy of the Judgment  
has been sent to the  
D/section for issuing  
the same to the parties  
Through Regd. A.S. No.

pg

Sl.  
16/5

Issued vide

D. No. 1778 & 1782.

D. 16.5.97



6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 108 of 1996.

Date of Order : This the 28th Day of April, 1997.

Justice Shri D.N.Baruah, Vice-Chairman

Shri G.L.Sanglyine, Administrative Member.

Md. Tajnur Ali and 7 others.

. . . Applicants.

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India  
through the Secretary, Govt. of India,  
Ministry of Defence,  
New Delhi.

2. Additional Director General of  
Staff Duties (SDGE),  
General Staff Branch,  
Army Head Quarters, DHG,  
P.O. New Delhi-110011.

3. Administrative Commandant,  
Purv Kaman Mukhyalaya,  
Head Quarters, Eastern Command,  
Fort William, Calcutta-700021.

4. Administrative Commandants,  
Station Headquarters, Rangiya,  
C/O 99 A.P.O.

. . . Respondents.

By Advocate Shri S.Ali, Sr.C.G.S.C.

O R D E R

BARUAH J.(V.C)

These eight applicants have approached this Tribunal in this application, praying inter alia for directions to the respondents to reappoint the applicants and regularise their services in the existing vacancies and also to the respondents to give all the consequential benefits including monetary benefit from the respective date of their engagement and also to pay regular salary and allowance to the applicants. All the applicants were engaged Casual Labourer in the Station Headquarter, Rangia under Defence Department. They were engaged on various dates and accordingly they had been

discharging their duties. Their services were later on terminated on different dates. Details are extracted below :

<u>Sl.No.</u>	<u>Name</u>	<u>Initial date of appointment</u>	<u>Date of verbal termination</u>
1.	Md. Tajnur Ali	22.5.1987	31.12.1993 .
2.	Md. Karimuddin Ahmed	April, 1988	9.6.1993 .
3.	Sri Naren Ch. Kalita	1.8.1991	31.12.1993 .
4.	" Mongil Ghosi	1.11.1991	31.3.1993 .
5.	Smt Lalita Das	31.12.1992	31.12.1994 ✓
6.	Sri Jatin Ch. Boro	1.9.1992	31.10.1993 ✓
7.	Md Rashid Ali	1.10.1981	31.12.1987
8.	" Kader Ali	21.4.1992	1.6.1993 .

The respondents having terminated their engagement on the different dates, the applicants being dissatisfied, sent notices to the respondents through their lawyers demanding their reinstatement and for payment of their salary. However, nothing was done. Hence the present application.

2. The case of the applicants is that as per Annexure-D scheme to the rejoinder the casual workers who were in the engagement and served and worked 240 days continuously in case of 6 days week and 206 days in case of 5 days week should be granted temporary status and also to be regularised in the service in manner indicated in the said scheme. But contrary to the provisions of the said scheme the engagement of the applicants as casual labourer had been terminated. The contention of the applicants is in the facts and circumstances of the case, under the said scheme the services of the applicants ought not to have been terminated. On the other hand, they ought to have been granted temporary status and also regularise their engagement under the scheme.

According to the applicants the said scheme was prepared by the Government of India, Department of Personnel and Training vide No.51016/2/90-Estt(C) dated 10.9.1993. The scheme became effective on and from 1.9.1993. The applicants ought to have been granted temporary status and thereafter regularise their service as per the conditions mentioned in the said scheme. Relevant portion of the scheme is extracted below :

"The guidelines in the matter of recruitment of persons on daily wage basis, the grant of temporary status to the casual employees, who are presently employed and have rendered one year or continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme."

In view of the above all the Central Government departments except department of Telecom, Posts and Railways may be regulated under the scheme. In the scheme it is abundantly clear that these casual employees were in the engagement on the date of commencement of the scheme (1.9.1993) and who were still in the engagement on the date of issue of this scheme those casual employees should have been given the temporary status and also later on regularised. On looking to the particulars we find that applicant No. 1 Tajnur Ali, applicant No.3 N.C.Kalita, applicant No.5 Smt Lalita Das and applicant No.6 Jatin Ch.Boro were in employment on the date of commencement of the scheme and they also completed more than 240 days from the date of their initial appointment. Mr J.L.Sarkar, learned counsel appearing on behalf of the applicants has also drawn our attention to a decision of this Tribunal given in O.A.No.56 of 1994, Bhudhiram Boro & Ors. vs. Union of India & Ors. wherein



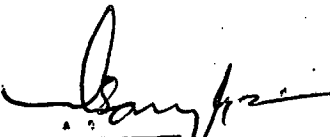
wherein this Tribunal held that those who were in employment on the date of issuance of the Notification of the scheme dated 10.9.1993 ought to be given temporary status and subsequently regularised. This Tribunal in the said judgment however, did not give the similar direction to the other applicants whose services have been terminated prior to that date. However, the Tribunal gave a direction to the respondents to consider whether they could be given benefit contained in earlier office memorandum dated 7.6.1988 which were applicable prior to enforcement of the 1993 scheme. The earlier office memorandum issued under Government of India, Department of Personnel & Training Office Memorandum No. 48014/2/86-Estt(C) dated 7.6.1988 certain conditions were laid down regarding the manner of recruitment of casual workers on daily rated basis. This office memorandum was issued pursuant to the decision of Supreme Court in its judgment dated 17.1.1986. The earlier judgment of this Tribunal directed the respondents to consider whether they could have engaged as casual labourer in pursuance to the aforesaid office memorandum dated 7.6.88. The facts of this present case are also similar in nature. Therefore, following the aforesaid judgment of this Tribunal we hold that applicants No.1 T.Ali, No.3 N.C.Kalita, No.5 Smt L.Das and No.6 J.C.Boro should be given temporary status. Regarding the remaining applicants as they were not in employment on the date of commencement of the scheme, they cannot be given the temporary status under the scheme. However, the respondents are also directed to consider whether they could be


contd.. 5

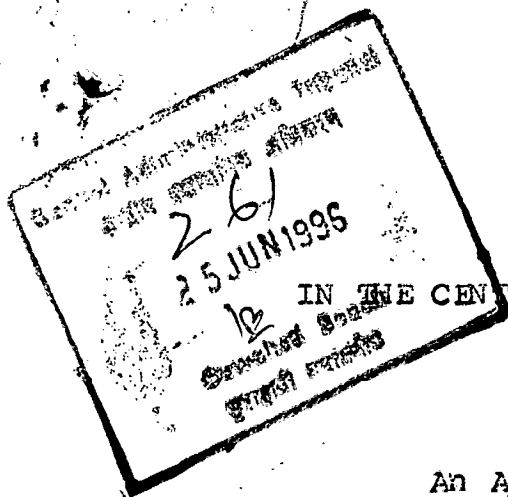
B

given benefit under the office Memorandum dated 7.6.1988. The respondents are directed to comply with the direction as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Considering the entire facts and circumstances of the case we however, make no order as to costs.

  
( G.L.SANGLIYINE )  
ADMINISTRATIVE MEMBER

  
( D.N.BARUAH )  
VICE-CHAIRMAN



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH,  
GUWAHATI.

An Application under Section 19 of the  
Central Administrative Tribunal Act, 1985.

O.A. No. 108 /96.

Md. Tajnur Ali and 7 ors.

..... Applicants.

-Versus-

Union of India & ors.

..... Respondents.

I N D E X.

<u>Sl.No.</u>	<u>Annexure.</u>	<u>Particulars.</u>	<u>Pages.</u>
1.	-	Application	1 - 21.
2.	-	Verification.	22.
3.	A	Lawyer's Notice dated 29.4.96.	23 - 30.
4.	A-1	-do-	31 - 33.
5.	B-1 to B-14.	Copies/Photo copies of passes.	34 - 46.
6.	C	Copy of Judgement	47 - 51.
7.	W.S -	R.O. - 1 - 4 -	52 - 63
8.	Rejoinder -	- - -	70 - 91

Filed by -

*Phule,*  
Advocate.

*Md. Koushik Das Aish*

Filed by The applicant  
through m. sharma  
13.6.96. Advocate

- 12
1. Md. Tajnur Ali,  
s/o. Late Year Ali,  
resident of village - Septi,  
P.O. & P.S. - Rangiya,  
District - Kamrup.
  2. Md. Karimuddin Ahmed,  
s/o. Nausad Ahmed, Ali,  
Village - Berampur,  
P.O. & P.S. - Rangia,  
District - Kamrup.
  3. Sri Narendra Chandra Kalita,  
s/o. Sri Prasanta Kalita,  
Village Baranhati,  
P.O. - Baranhati,  
P.S. - Kaya,  
District - Kamrup.
  4. Sri Manzil Ghojri,  
s/o. Sri Azim,  
Village - Changmaguri,  
P.O. - Changmaguri,  
District - Kamrup.
  5. Smti. Lalita Das,  
D/O. Late Bijoy Das,  
Resident of Ulubari,  
P.O. - Ulubari,  
Guwahati - 7.

6.....

Md. Karimuddin Ahmed

6. Sri Jatin Chandra Boro,  
S/O. Ratiram Boro,  
Village - Bongaon,  
P.O. - Rangiya,  
District - Kamrup.

7. Md. Roshish Ali,  
s/o. Late Rafique Ali,  
Village - Udiana,  
P.O. - Udiana,  
District - Kamrup.

8. Kader Ali,  
S/O. Late Channun Ali,  
Village - Kaniha,  
P.O. - Kaniha,  
District - Kamrup.

3. Particulars of the Respondents.

1. The Union of India,  
Through the Secretary, Govt. of India,  
Ministry of Defence,  
New Delhi.

2. Additional Director General of  
Staff Duties (SDGE),  
General staff Branch,  
Army Head Quarters, DHG,  
P.O. - New Delhi - 110011.

3. Administrative Commandant,  
Purv Kaman Mukhyalaya,  
Head Quarters, Eastern Command,  
Fort William, Calcutta - 700021.

4.....

Md Karim Ibr Ahmed

- 14
4. Administrative Commandants,  
Station Head Quarters, Rangiya,  
C/O. 99 A.P.O.

3. Particulars for which this application is made.

This application is made for appointment of the applicants on regular basis and also priority basis on existing and future vacancies to the post of Conservancy Safaiwala under Administrative Commandant, Station Hq. Rangiya considering the past services of the applicants in the said station Hq. on casual basis and on the principle laid down by the different Benches of the C. A. T. Benches as regard casual worker.

4. Limitation.

The applicants state that the case is filed within the time period under the CAT Act.

5. Jurisdiction.

The applicants states that the cause of action has been arisen within the jurisdiction of this Hon'ble Tribunal.

6. Facts of the case.

1. That the applicants are citizens of India as such they are entitled to all the rights and privileges guaranteed by the Constitution of India. All the 8

applicants.....

Ms. Kanna B. Dey

15

applicants were employed as Conservancy Sufaiwala on casual basis under the Station Headquarter on different dates since 1981 onwards. They were employed through local employment, Exchange, on the basis of the requisition of the Station Headquarter, Rangiya, on daily wages basis. The applicants were entrusted with the work of gross cutting, sufai, gardening, plantation, loading, unloading, of rations and other maintenance work, despatch work in the office. Be it stated that ~~xxxxxxx~~ Army Camps are situated at Tamulpur, Rangiya, Changsari, and there are three Army hospitals situated at Changsari, Rangiya and Tamulpur. All these three camps are occupies a few acres of land and all those applicants were engaged for maintenance of these three big camp areas and also for other routine nature of regular works. The Hon'ble Tribunal be pleased to allow the applicants to move this application jointly under the relevant rule of A.T. act, 1985.

2. That all the applicants were working in this Army Establishment on casual basis as Conservancy Safaiwala for years together but they were being deprived from regular service benefit, pay-scale, dearness allowance, house rent, medical allowances, and even minimum of the pay-scale also not granted to these applicants while they were in casual service under the station Head-quarter, Rangiya, and benefit of the different scheme of the

Central.....

Mr. Karim D.C. Alund

Central Govt. for casual workers, were not extended to the applicants. There were number of Central Govt. scheme for regularisation of casual workers, who continued for long time as casual worker some of those schemes were issued under the O.M. dated 7.6.88 and also the grant of temporary status, and regularisation scheme of 1993.

3. That your applicants beg to state that although they had served for a considerable long period, under the Station Head Quarter, Rangiya, and although they were initially recruited on casual basis after observing all formalities, through employment Exchange and also through Selection Board, but service, of the applicants were terminated by verbal order and without following any established procedure of law, the details particulars of working period of the applicants and other particulars are furnished below :-

Sl.No.	Name.	Initial date of appointment.	Date of verbal termination.
1.	Md. Tajnur Ali.	22.5.1987.	31.12.1993.✓
2.	Mr. Karimuddin Ahmed.	April, 1988.	09.06.1993.
✓ 3.	Mr. Naren Ch. Kalita.	01.08.91.	31.12.1993.✓
4.	Sri Mongil Ghosi.	01.11.91.	31.03.1993.
5.	Smti. Lalita Das.	31.12.92	31.12.1994.✓
✓ 6.	Sri Jatin Ch. Boro.	01.09.92	31.10.1993.✓
7.	Mr. Rashid Ali.	01.10.1981.	31.12.1987.
8.	Mr. Kader Ali.	21.4.92.	1.6.93.

From.....

Md. Karimuddin Ahmed



From above it is quite clear that the applicants had rendered casual service as Conservancy Safaiwala, for a very long period under the station Head Quarter, Rangiya, and thereby they have acquired a valuable as well as legal right for appointment in the existing and future vacancies of Conservancy Safaiwala, under Station Head Quarter, Rangiya,

4. That after verbal termination of services of the applicants, they repeatedly approached the Station Head Quarter, Rangiya for appointment in the existing vacancies, on priority basis. Be it stated that there are number of vacancies of Conservancy Safaiwala still exists under the Station Head Quarter, Rangiya, and therefore there is no difficulty on the part of the Authorities, to regularise the services of the applicants, under the Station Headquarter Rangiya. Be it stated that the applicants have fulfilled all requirements for regularisation of their services as Conservancy Safaiwala.

5. That the applicants after repeated approach, issued a lawyer notice addressed to the Secretary, to the Govt. of India, Ministry of defence, New Delhi and also to the Administrative Commandant, Station Head Quarter, Rangiya,

on.....

M. Karan Singh

on 29.4.96, requesting for their appointment as Conservancy Safaiwala, on priority basis in the existing vacancies, and future vacancies, but suprisingly, immediately after receipt of the lawyer notice, the authorities of the Station Head Quarter hence recruited nearly 20 conservancy safaiwala, on temporary basis, without considering the claim of the applicants, who were entitled to be appointed on priority basis, even temporarily, but the respondents have violated the guidelines, scheme, by resorting to fresh recruitment even on temporary basis, without considering the cases of the applicants. Therefore action of the respondents are highly illegal and arbitrary.

A copy of the lawyer notice dated 29.4.96 is enclosed as Annexure - A, and representation dated 20.4.96 as Annexure - A-1.

6. That the applicants beg to state that Safaiwalas working in the State of Arunachal Pradesh under the same Ministry of Defence, have been appointed on regular basis in the initial stage. Be it stated that in the State of Arunachal Pradesh Safaiwalas, were given regular pay-scale whereas in the present establishment these applicants were treated as casual Conservancy Safaiwalas, even after long period of service and thereafter arbitrarily terminated the service of the applicants by Station Headquarter.

7.....

*Md. Kamil M*

7. That there are Administrative instructions issued by the higher authorities under the following letters quoted hereunder :-

- 1) 0-3144 Eastern Command GS/SD Fort William under File No. 4022/G, Calcutta dtd. 23.8.93.
- 2) 2221/4/OS(SD) HQ. 51 Sub Area dt. 20.8.93, under file No. 2 4022/G, Eastern Headquarters.
- 3) 0-3160 HQ. 51 Sub-Area dated 14.8.93 under file No. 4022/G, Eastern Headquarters.
- 4) 0-3141 HQ. Sub Area under File No. 4022/G, Station HQ.
- 5) 2221/4/C/GS(SD) Sub Area dated 7.8.1993.
- 6) 0-3136 HQ. 51 Sub-Area, dated 2.8.93.
- 7) 0-3126 HQ. 51 Sub Area dated 27.8.93.
- 8) 0-3104 HQ. 101 Area dated 28.8.93.
- 9) 0-3171 HQ. 51 Sub Area dated 13.8.93.
- 10) C/60249/SDGB GS Branch Army Hqr.

The above quoted letters were regarding regularisation of the casual workers and their conditions of service, therefore, the Hon'ble Tribunal be pleased to direct the Respondents to produce all these letters before the Hon'ble Tribunal. Be it stated that as per circular of Govt. of

India.....

*Md. Kasimuddin*

India, casual workers, who had completed 240 days work, in two subsequent years are entitled to be regularised in Group 'D' posts. Therefore, all the present applicants are entitled to be regularised in service.

8. That the applicants beg to state that the service records of the applicants are being not maintained properly. Applicants' engagement, work allotment and break in service are being done on verbal orders. No formal orders of engagement are being issued to the individual applicants. Be it stated that all the applicants were initially engaged through local Employment Exchange. The Respondents had issued temporary pass where detail particulars of individual applicants are furnished. Initial engagement of all the applicants were for 2/3 months and on each occasion there is an artificial break of service to deprive the regular service benefit of the applicants. Be it stated that the nature of work for which the applicants were employed in permanent nature. Therefore, applicants are legally entitled to re-appointment and be regularised with all consequential service benefits from the date of their initial engagement.

Few photo copies of temporary pass and other documents are enclosed with this application as Annexures - B-1 to B-14 for perusal of the Hon'ble Tribunal and other copy may be produced at the time hearing.

9.....

M.D. Karimuddin Ahmed

9. That the applicants beg to state that they were being paid wages far less than the minimum pay, payable under the pay scale applicable to the regular employees belonging to corresponding cadres, since the applicants belong to the category of casual labour and were not being regularly employed, they were entitled to the same privileges which the regular employees are enjoying.

Therefore, in the instant case the applicants are subjected to hostile discrimination. India is a socialistic Republic. It implies the existence of certain important obligation which the State has to discharge. The right to work, to right to free choice of employment, the right to just and favourable condition of work, the right to just and favourable conditions of work, the right to protection against unemployment, the right of every one who works just and ~~xx~~ favourable remuneration ensuring a decent living for himself and his family, the right of every one without discrimination of any kind to equal pay for equal work, the right to rest, leisure, reasonable limitation on working hours and periodic holidays with pay, the right to security of work are some of the rights which have to be ensured by appropriate legislative and executive measures.

10. That the applicants beg to state that recently more than 60 casual Conservancy Safaiwalas who were working

under the.....

M.D. Kaur & Co. Adv.

under the Station Hq. have been regularised following the judgement and order passed by this Hon'ble Tribunal in O.A. No. 248/93 and 264/93, 265/93. Be it stated that a number of casual workers are still working under the Station Hq. even after the regularisation of large number of casual workers and there are large numbers of existing vacancies are there under the SHQ., Rangiya and the authorities recently in the month of May/96 recruited nearly 20 fresh conservancy workers. Therefore the applicants are entitled on priority basis regularisation on existing vacancies then the fresh recruits. The Hon'ble Tribunal be pleased to direct the Respondents to produce all relevant records regarding fresh recruitments in April/May/96 for perusal of the Hon'ble Tribunal and this fresh recruitment of casual workers as Conservancy Safaiwala further gives fresh cause of action for the present applicants.

11. That the applicants beg to state that similar question was raised in O.A. No. 248/94 (Md. S.I. Ali & Ors -Vs- U.O. I & Ors) and the same was contested by the Respondents. However, the Hon'ble Tribunal in favour of the applicants in O.A. No. 248/94. The relevant portion of the judgement and order dated 10.11.95 from para 5 quoted below :

"5.....

MD. KAMRUL HAQUE

22

"5. Mr. Ali, Sr. C.G.S.C. submits that according to his instructions there are no posts presently available. We would only say in this connection that if there are any posts available not necessarily at Rangiya but at other places it would be open to the respondents to sympathetically consider whether the applicants may be regularised against those posts.

Subject to the above observations following order is passed :

1. The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India and benefit of guidelines under O.M. dated 7.6.1988 to the applicants and the question of conferring temporary status on them and thereafter regularisation against the posts as may be available subject to their eligibility and availability of posts wherever available.
2. The respondents No. 3 & 4 may, if necessary, seek sanction for the posts to enable consideration of regularisation of the applicants if they are otherwise found eligible for the same under the Scheme.

3.....

MO. Karimuddin Ali

3. The circumstances of disengagement of the applicants may be considered in the light of the Scheme and guidelines respectively if applicable as stated above.
4. The respondents to examine the cases of the applicants in the light of above directions as expeditiously as possible but in any case within a period of three months from the date of receipt of this order and intimate their decision to the applicants accordingly.
5. The question of consequential benefits, if any, available to the applicants under the Scheme/ Guidelines in the event of their being considered for regularisation may be extended to them.
6. The respondents may not confine their consideration in respect of the applicants for the aforesaid purpose only at Rangiya Field Station but may consider if they can be accommodated at any other place.
7. It will be open to the respondents to offer casual engagement to the applicants when possible.

The O.A. is disposed of in terms of the aforesaid directions. No order as to costs\*.

The applicants.....

*Md. Kaziul Haque*



The applicants are similarly situated and entitled to same benefit passed in O.A. No. 248/94.

Copy of the judgement is annexed as Annexure - "C".

12. That the Hon'ble Supreme Court in Daily rated casual labour employed under P & T. Department through Bharatiya DAK TAR MAZDOOR MANCH -Vs- Union of India and Another 1988 (1) S.C.C. 122 held that government cannot take ~~any advantage~~ advantage of its dominant position and further held that Daily rated casual labourers are entitled to minimum pay in the pay scale of the regular workers plus D.A. but without increment and further directed to prepare a scheme for absorbing the casual labourers on rational basis who rendered one year casual service in the posts and telegraphs Departments. Similar direction for regularisation of services of casual labourers passed by the Hon'ble Supreme Court in the case of Dharendra Chamoli & Others -Vs- State of U.P. (1986(1) S.C.C. 637) wherein it is held as follows :-

"But we hope and trust that posts will be sanctioned by the Central Government in the different ~~the~~ Nehru Yuvak Kendra, so that these persons can be regularised. It is not at all desirable that any

Management.....

MD. KAWI ALI

Management and particularly the Central Government should continue to employ persons on casual basis in organisations which have been in existence over 12 years. The salary and allowances of Class-IV employees shall be given to these persons employed in Nehru Yubak Kendras with effect from the date when they were respectively employed. The Government of India will pay to the petitioners costs of the writ petitioners ~~xxxxxx~~ fixed at a lumpsum of Rs. 1000/-".

The Hon'ble Supreme Court passed similar direction in the cases of Surinder Singh & another-vs-Engineer-in-Chief, C.P.W.D. & others (1986(1) S.C.C. 639) and also in the case of U.P. Income Tax Department Contingent Paid Staff Welfare Association -Vs-Union of India & others, the Hon'ble Supreme Court directed as follows :-

"We accordingly allow this writ petition and direct the respondents to pay wages to the workmen who are employed as the contingent paid staff of the Income Tax Department throughout India, doing the work of Class IV employees at the rates equivalent to the Minimum pay in the pay scale of the regularly employed workers in the corresponding cadres without any increments with effect from December, 1, 1986, such

workman.....

Md. Karim Uddin Alwi

workman are also entitled to corresponding Dearness allowance and additional dearness allowance payable thereon. Whatever other benefits which are now being employed by the said workmen shall continue to be extended to them, we further direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the contingent paid staff of the Income Tax Department who have been continuously working for more than one year as Class-IV employees in the Income Tax Department".

In view of the aforesaid position and law laid down by the Hon'ble Supreme Court the applicants are entitled to be re-appointed and be regularised with effect from date of their respective engagement.

13. That the applicants beg to state that their cases of regularisation is brought to the notice of Secretary to the Govt. of India, Ministry of Defence, New Delhi-110001, through All India Defence Employees Federation, Pune with copy to Army Headquarters, Addl. Dte. Gen of Org/Org 4(Civ) (JCM) Adjutant General's Branch, Army HQR., P.O. New Delhi-110001 and also to Officer Commanding Station Headquarter Rangiya, but the respondents did not take any steps to

regularise.....

*M.D. Kaur*

regularise the services of the applicants. Be it stated that names of all the applicants were not in the representation dated 11.6.1993.

14. That the applicants beg to state that if the Hon'ble Tribunal does not interfere immediately then irreparable loss will be caused to applicants for their re-appointment and regularisation in services.

15. That all the applicants have acquired legal rights for re-appointment and regularisation of their services by rendering casual services to the aforesaid Army Establishment for long years and they are waiting for employment. Therefore, they are legally entitled to be re-appointment and regularisation and also entitled regular salary and other allowance, service benefits like that of Class-IV categories of civilian employees of the Defence Establishment.

16. That this Hon'ble Tribunal in the cases of Civilian Switch Board Operators, in O.A. No. 185/90, O.A. 70/92 and O.A. 104/92 in O.A. No. 223/93 in the similar facts and circumstances was pleased to direct the respondents to regularise the services of the casual civilian Switch Board Operators, therefore, the present applicants are similarly situated and therefore entitled to be regularised in the appropriate pay scale.

7) Reliefs.....

ND. Karim Ali AG

7. Reliefs Sought for :

Under the facts and circumstances stated above the applicants pray for the following reliefs :-

- 1) That the Respondents be directed to re-appoint the applicants and the services of the applicants be regularised in the existing vacancies on priority basis with all consequential service benefit including monetary benefits from the respective date of engagement immediately.
- 2) That the Respondents be directed to pay regular salary and allowances in the appropriate scale from the date of engagement.
- 3) Cost of the cases.

These above reliefs are prayed on the following amongst other -

- G R O U N D S -

- 1) For that the applicants having worked for a considerable long period i.e. from 2 to 10 years, therefore, they are entitled to be re-appointed and be regularised in the category of Class-IV staff in the existing vacancies.
- 2) For that fresh recruitment of Conservancy/Safaiwalas in supersession of the claim of the applicants are hostile discrimination and violative of Article 14 and 16 of the Constitution of India.

3) .....

Md. Karim ul Haq

- 3) For that the applicants have become over aged for other employment.
- 4) For that Army Establishment was set up more than decade in Rangiya, Assam.
- 5) For that it is not just and fair to terminate the services of the applicants only because they were initially recruited on casual basis.
- 6) For that similarly situated other employee of Gr. IV has not been terminated as the applicants are entitled to be re-appointed and regularised.
- 7) For that they have gathered experience of different works in the establishment.
- 8) For that the names of the applicants were sponsored through local Employment Exchange and existing vacancies are there in the Army Establishment.
- 9) For that the nature of work entrusted to the applicants were of permanent nature and therefore they are entitled to be re-appointed and be regularised.

10) .....

M. D. Karim de Ahs

- 10) For that the applicants working as Casual workers for several years in the same Army Establishment, therefore, they are legally entitled to be regularised and re-appointed.
- 11) For that the applicants have got no alternative means of livelihood.
- 12) For that the Central Government being a model employer cannot be allowed to adopt a differential treatment as regard payment of wages to the applicants.
- 13) For that there are existing vacancies of conservancy/safaiwala under Station Head Quarter, Rangiya.

8. Interim Reliefs prayed for :

During the pendency of this application the applicants pray for the following Interim Reliefs :-

- 1) That the Respondents be directed to consider re-appointment in the existing vacancies on <sup>regular</sup> ~~xxxx~~ basis from the date of initial engagement in the appropriate scale, on priority basis.

The above interim Reliefs are prayed on the ground stated in Para 7 of this application and if the same is

not.....

*md. Kalam R. A. A. A.*

not granted the applicants will suffer irreparable loss and injury.

9. The applicants declare that there is no remedy under any rule and the Hon'ble Tribunal is the only remedy.

10. The applicants further declare that they have not filed any other application on this subject before any other Tribunal/Court.

11. Details of postal Order:

Postal Order No.

<sup>Mer</sup>  
:- ~~346219~~ 346313

Date

:- 20-6-96.

Issued by

:- G.P.O., Guwahati.

Payable at

:- Guwahati.

12. Details of Index.

An Index containing the details of documents is enclosed.

13. List of Enclosures :

As per Index.

Virification.....

M. K. Arora J. D. A. L. S.



VERIFICATION.

I, Md. Tajnur Ali, son of late Year Ali, aged about  
21 ~~years~~ <sup>years</sup>, resident of village - Septi, P.O. & P.S.  
Rangiya, District - Kamrup, do hereby verify that the  
statements made in this application <sup>Part 1 to 13</sup> are true to my  
knowledge and belief and I have not suppressed any  
material facts.

মি. তাজনুর আলী

Date :- 13-6-96

Signature.

Place :- Anwarhat

Annexure - A.

From :  
M. Chanda,  
Advocate,  
C/O. A. Rahman,  
South Sarania.  
Bye Lane 7  
Lachit Nagar,  
Guwahati - 781007.

LEGAL NOTICE.

To

1. The Secretary to the Govt. of India  
Ministry of Defence,  
New Delhi.
2. The Administrative Commandant,  
Station Headquarter,  
P.O. - Rangiya,  
Dist. Kamrup,  
Assam.

Sir,

Under the instruction of my clients

1. Md. Tajnur Ali, Son of late Y<sub>e</sub>r Ali, resident of  
village Sapti, P.O. & P.S. Rangiya, District -  
Kamrup, Assam.
2. Md. Karimuddin Ahmed, Son of Nawasad Ahmed,  
Village Barampur, P.O. Rangiya, District - Kamrup,  
Assam.
3. Sri Narendra Ch. Kalita, Son of Sri Prasanna Kalita,  
resident of Baranhati, P.O. Baranhati, P.S. Kaya,  
District - Kamrup, Assam.
4. Sri Mongil Ghosi, son of Sri Azim, resident of  
Village - Changmaguri, P.O. Changmaguri, District - Kamrup,  
Assam.
5. Smti. Lalita Das, D/O. Late Bijoy Das, P.O. - Ulubari,  
Guwahati- 7.
6. Sri Jatin Chandra Boro, Son of Rathiram Boro, Vill.  
Bangeon, P.O. Rangiya, Dist. Kamrup, Assam.
7. Md. Rashid Ali, S/O. Late Rafiq Ali, Vill. - Udiana,  
P.O. Udiana, District, Kamrup, Assam.

I do.....

AH - 12-1  
24/12/12

Annx. A.

I do hereby give you this statutory notice for appointment of my above named clients in the existing vacancies of Conservancy Safaiwala on priority basis in the Station Headquarter, Rangiya within a period of 60 days from the date of issue of this statutory notice.

1. That all my clients mentioned above initially appointed on casual basis as Conservancy Safaiwala.- in the Station Headquarter, Rangiya on different dates and they were posted in different units under the Station Headquarter, Rangiya. Be it stated that some of my clients have rendered continuous services on casual basis and some of my clients rendered their services in different spells with artificial breaks. The detail particulars of service records including the date of initial appointment and particulars/date of verbal termination are furnished hereunder :

Sl.No.	Name.	Initial date of appointment.	Date of verbal termination.
1.	Md. Tajnur Ali.	22.5.1987	31.12.1993
2.	Mr. Karimuddin Ahmed.,	April, 1988.	09.06.1993.
3.	Mr. Naren Ch. Kalita.	01.08.91.	31.12.1993.
4.	Sri Mongil Ghorl.	01.11.91.	31.03.1993.
5.	Smti Lalita Das.	31.12.92.	31.12.1994.
6.	Sri Jatin Ch. Boro.	08.09.92	31.10.1993.
7.	Mr. Rashid Ali.	01.10.1981	31.12.1987.

From.....

A. H. H. H.  
@ H. H.  
H. H.

Annx. A.

From the above table it appears that my clients have continued in the service of casual Conservancy Safaiwala for a very long period under your establishment at Rangiya. Therefore it is a legitimate claim of my clients if there are any existing vacancy they should have been regularised on priority basis to the post of Conservancy Safaiwala considering their past services. But unfortunately although on many occasions they personally approached your good office for further engagement and my clients got assurances from you that their cases for appointment will be considered on priority basis but surprisingly now you have recruited nearly 19 fresh hands to the post of Conservancy Safaiwalas in the month of March, 1996 without considering the cases of my clients. This action is contrary to the settled Law of the Land. In this connection I beg to state that the Hon'ble Supreme Court and different Tribunals by this time have laid down the law that the retrenched employees/casual workers be recruited on priority basis based on the existing of future vacancies. But in the instant cases you have violated the said principle by recruiting the fresh hands and deprived from legitimate rights of my clients as regard appointment to the post of Conservancy Safaiwala. In this connection I beg to refer the Judgement and Order dated 8.2.1991 passed by the Principal Bench, New Delhi reported in 1991 (17) ATC. Page 671. The relevant portion of the Judgement & Order dated 8.2.91 passed by the Hon 'ble Supreme Court is quoted below :

"12.....

A. H. K. S.  
Chh  
S. V.

Annx. A.

"12. The Supreme Court has directed the Government to prepare scheme for regularising casual workers in the Railways, the posts and Telegraphs Department, the Income Tax Department, the Delhi Municipal Corporation, Nehru Yuvak Kendra, C.P.W.D. and P.W.D. Daily-wage Employees in Kamataka (vide Inder Pal Yadav Vs. Union of India relating to the Railways, Daily-Rated Casual Labour Employed under P & T Vs. Union of India relating to P & T Department, U.P. Income Tax Department Vs. Union of India Vs. P.L. Singh, Dharendra Chamoli vs. State of UP. relating to Nehru Yuvak Kendras, Surender Singh vs. Engineer-in-Chief, C.P.W.D., and Dharwad District P.W.D. Literate Daily wage Employees Vs. State of Kamataka. Referring to the leading decisions on the subject, the Supreme made the following pertinent observations in the Kamataka case mention above.

"We have referred to several presents all rendered within the current decade to emphasize upon the feature that equal pay for equal work and providing security of service by regularising casual employment within a reasonable period, have been unanimously accepted by this Court as

a constitutional.....

✓  
Attent  
@hla  
Adv.

a constitutional goal to our policy. Article 142 of the Constitution provides how directions of this Court are to be treated and we do not think there is any need to remind the instrumentalities of the State - be it of the Centre of the State, or the Public Sector - that the Constitution makers wanted them to be bound by what this Court said by way of interpreting law".

13. In the light of the aforesaid legal position, the framing of a suitable scheme for regularising the Casual Artists of Doordarshan is a Constitutional imperative and long overdue.

14. In our considered view, the respondents should frame a scheme for absorption of Casual Artists who have worked for a period of one year and more, keeping in view the following aspects.

- (i) Casual Artists who have been engaged for an aggregate period of 120 days, may be treated as eligible for regularisation. The broken periods in between engagement and disengagement, are to be ignored for this purpose.
- (ii) The respondents shall prepare a panel of Casual Artists who had been engaged on contract basis, depending on the length of service. The names of those who have not been regularised so far, specially from 1980 onwards, though may not be in service now, are to be included in the panel. Persons borne on the panel, are to be considered for regularisation in the available vacancies.

(iii).....

Attended  
@ 10/11/80  
A.V.

Annx. A.

- (iii) For the purpose of regularisation the upper age-limit has to be relaxed to the extent of service rendered by the Casual Artists, 120 days' service in the aggregate shall be treated as the service rendered in one year for this purpose.
- (iv) Till all the Casual Artists who have been engaged by the respondents have been regularised, the respondents may not resort to fresh recruitment of such Artists through Employment Exchange or otherwise.
- (v) Till the casual Artists are regularised the wages to be paid to them should be in accordance with the scale of pay of the post held by a regular employees in an identical post. The amount of actual payment would be restricted to the actual number of days worked during a month".

The Central Administrative Tribunal, Principal Bench, New Delhi has also expressed similar view in the case of P. Munu Swamy and Ors. Vs. Union of India & Ors. reported in ATC (1992) Vol. 22, Page 115. The relevant portion of the Judgement and Order passed in O.A. Nos. 1154 of 1991, 1827, 1843 and 1954 of 1 1990 in the case of P. Munuswamy and Ors. Vs. U.O.I. & Ors. dated 24.12.1991 is quoted below :

"11.....

Attested  
Chula  
Adw.

40

"11. In the light of the above, the applications are disposed of with the following orders and directions :

- (i) The respondents are directed to prepare a list of casual labourers engaged in their various offices located in Delhi and elsewhere from time to time through Employment Exchange or otherwise. Whenever they need the services of the casual labourers, they should be engaged from the said list, preference being given to those who have put in longer period of service than the others. The broken periods of service shall not be reckoned for the purpose of determining the total length of service.
- (ii) We hold that the practice of disengaging casual labourers and engaging fresh recruits through Employment Exchange is not legally sustainable and disapprove the same.
- (iii) The respondents shall consider regularisation of the casual labourers in Group D posts whenever vacancy arises due to retirement or otherwise. Such regularisation should be in accordance with the administrative instructions issued by the Department of Personnel and

Training.....

Approved  
@h  
P2V



Annx. A.

Training. Till they are so regularised, they should be paid wages on the scale prescribed by the Department of Personnel and Training.

- (iv) The applicants shall be accommodated as casual labourers in their offices located at Delhi or elsewhere, depending on the availability of vacancies and in accordance with the aforesaid directions. Interim orders passed in those cases are hereby made absolute.
- (v) There will be no order as to costs".

From above, it is quite clear that they have acquired a valuable right for their regularisation on priority basis and therefore I request you to consider the case of my clients on priority basis in the existing vacancies of Conservancy Safaiwalas within a period of 60 days from the date of receipt of this Legal Notice under intimation to ~~xxxx~~ the undersigned failing which my clients shall adopt appropriate legal remedies for redressal of their grievances and you will be liable to bear the costs and consequences of the same.

Thanking you,

Date :

Place : Guwahati.

Yours Sincerely,

(MANIK CHANDA).

AH-1-1-1  
Chanda  
dsw

Annex. A-1.

From -  
Sri Manik Chanda,  
Advocate,  
C/O. A. Rahman,  
North Bye-Lane No. 7,  
Lachit Nagar,  
P.O. - Guwahati - 781007,  
Dist. Kamrup, Assam.

To  
The Secretary to the Govt. of India,  
Ministry of Defence,  
New Delhi.

LEGAL NOTICE.

Sir,

Under the instruction of my client Sri Kadir Ali,  
s/o. late Chandmor Ali, resident of Vill. Kaniha,  
P.O. - Kaniha, District - Kamrup, I do hereby give you  
this statutory notice on the following grounds :-

1. That my client read upto Class VI. He registered his name with the Employment Exchange, Rangiya, for appointment in any department. My client has 7 dependants. My client was looking for a job to maintain his family members.
2. That the name of my client was sponsored through the Employment Exchange, Rangiya, in October, 1991, and he was duly selected through the Board of Selection for the post of Conservancy Safaiwala under the Administrative Commandant Hq. Rangiya. Thereafter my client was appointed vide letter No. 3004/1/Q(Emp.) dtd. 21. April/92 and joined in duty on 1st May/92 as Conservancy Safaiwala. My client worked upto 1.6.93 continuously. Thereafter, his service has been terminated w.e.f. 1.6.93.

A copy of order dated 25.4.92 is annexed as Annexure-1.

3.....

*Attested  
Chanda  
SW*

3. That after termination of my client's service as Conservancy Safaiwala, the Administrative Commandant of Rangiya has appointed many persons as Conservancy Safaiwala at Station Head Quarters, Rangiya but my client has not been appointed till date, the reason best known to Administrative Commandant, Rangiya.
4. That my client came to know from a reliable source that posts of Conservancy Safaiwala are lying vacant under the Administrative Commandant, Hq. Rangiya.
5. That my client has completed more than 240 days, work as Conservancy Safaiwala under the Administrative Commandant Station, Head quarters, Rangiya. Hence he is entitled to be appointed on regular basis as Conservancy Safaiwala. The Administrative Commandant assured my client to appoint as Conservancy Safaiwala but to no result.

Under the circumstances I request you to appoint my client as Conservancy Safaiwala under Administrative Commandant, Hq. Rangiya within a period of 30 days from the date of receipt of this notice. Otherwise my client will initiate a case for his grievance and claim in the appropriate forum, cost and consequence upon you.

I hope you will avoid bitter experience of Court case.

Thanking you.

Yours sincerely,,

Date -

Copy to :

- 1) The Administrative Commandant,  
Station Head Quarter, Rangiya,  
C/O. 99 A.P.O. for information  
and n/a.

Attested  
@  
Adv.

Station Mukhyalaya,  
Station Headquarters,  
Rangiya.

3004/1/6 (Ran).

21 May 92.

To

Name - Md. Kadir Ali.  
Vill. - Kaniha, P.O. Kaniha,  
Dist. - Kamrup (Assam).

APPOINTMENT OF CONSY/SFWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR).

1. You are hereby employed in this Headquarters for the subject post at daily wages basis (Casual Labour) wef. 01 May to 19 Sept. 92 for the period of 89 days.
2. Your service will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be governed under the provisions of Govt. of India, Min of Def. letter No. 83482/EC/G/Org/4/(Civ) (a)/11604/D(Civ-II) dated 24 Dec. 73.

Sd/- Illegible.

(V.N. Thapar),  
Colonel,  
Administrative Commandant  
for Station Commander.

*Attended  
while  
Sd/-*

TEMPORARY PASS : CIVILIAN

1. Personal Number : Nil Pass No. 41
2. Name in Full : Tejnur Ali
3. Height/Age : 5'7"/26 years
4. Visible identification Marks :-
  - (1) Scar mark on the front side of the neck.
  - (2) Two small more on the rt side of the neck

/Photograph/

5. Signature of the individual : Sd/- Tejnur Ali
6. Left Thumb impression : Sd/-
7. Pass valid upto : 22nd May 87 to 22 Aug 87

Sd/- illegible

Attested  
@  
Div

Annexure - B-2.

Station Mukhyalaya,  
Station Headquarters,  
Rangiya.

3004/1/Q(Eap) (iv).

12 Mar 93.

Karimuddin Ahmed,  
S/O. Sri Nawsad Ahmed,  
Vill. Barampur, P. S. Rangiya.  
Dist. - Kamrup, (Assam).

APPOINTMENT OF CONSY/SFWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR).

1. You are hereby employed in the Headquarters for the subject post at daily wages basis (Casual Labour) Wef 13 Mar 93 to 09 Jun 93 for the period of 89 days.
2. Your service will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be Governed under the provisions of Govt. of India, Min. of Def letter No. 83482/EC/G/Org/4(Civ.) (a)/11604/D(civ-II) dated 24 Dec 73.

Sd/- Illegible.

(Kulbari Singh),

Captain,

offg. Administrative Commandant  
For Station Commander.

Copy to -

The abovenamed individual ~~is~~ is directed to report to you for duties wef \_\_\_\_\_ Please maint daily attendance accordingly and the \_\_\_\_\_ by first of each month to this Hq without fail.

*Attended  
by  
P.W.*

-24(a) 36

Annexure-B<sub>3</sub>

Personal No. Nil Pass No. 81/91

/PHOTOGRAPH/

Name in full : Naren Chandra Kalita

Height : 6' 8"

Name of installation : Stn. Hq, Rangiya

Sig of Issuing  
officer

Type of Emp : Consy Staff

Sd/-Illegible

Visible identification Mark

Valid upto

31 Mar 1992

(a) Black mole at the RT  
hand middle finger

Signature/Left Thumb Impression

Sd/- Sri Naren Chandra Kalita

Sd/-

In lieu of 1A FZ 3050

Ministry of Defence

1. This pass/iden card is the property of the govt. of India and must be surrendered on termination of emp or on tfr.
2. It is NOT tfr and relates only to the person described and for instl issued.
3. To protect it against damage and facilitate its recovery of ;pst ot should be carried in a self appraisal envelope.
4. Impersonation of the autho bearer of this docu or its destr alteration or tfr to another person are pena offence.
5. The loss of finding of this docu should be reported Stn.Hq,Rangiya..... (To be filled up by issuing authority)

Service Civ pers already in possession iden card with photographs need NOT have another photo on the card. This may be issued to civil Govt. servant not paid from Def and not in possession of an iden card. A photograph will then be affixed to this docus.

Attested  
By  
Sd/-

Personal No. Nil Pass No. 62/91

/Photograph/

Name in full : Md. Manjil Ghorl

Height 5' 8"

Name of Installation : STN HQ Rangiya

Type of Emp : Consy Staff

Sig of Issuing Officer

Dt. Sd/- Illegible

Visible identification marks :

(a) Black Spot at the RT  
side of the chest

Valid upto Sig. of  
Security  
offr

Signature/Left Thumb Impression

31 Mar 1992

31 Sep 92

Sd/- Manjil Ghorl

/ Seal/

In lieu of IAFZ 3050

#### Ministry of Defence

1. This pass/iden card is the property of the govt. of India and must be surrendered on termination of emp or on tfr.
2. It is NOT tfr and relates only to the person described and for instl issued.
3. To protect it against damage and facilitate its recovery of if lost it should be carried in a self appraisal envelope.
4. Impersonation of the autho bearer of this docu or its destr alteration or tfr to another person are pena offence.
5. The loss of finding of his docu should be reported to Stn. Hq., Rangiya (to be filled up by issuing authority)

Services Civ pers already in possession iden card with photographs need NOT have another photo on the card. This may be issued to Civil Govt, servant not released from Def and not in possession of an iden card. A photograph will then be affixed to this docu.

*Handwritten signature/initials*



Annexure - B-5.

Station Mukhyalaya,  
Station Headquarters  
Rangia.

3004/1/Q.

91/9/2.

To  
Shri Manjil Ghori,  
Vill. & P.O. - Chanmaguri,  
Dist. Kamrup (Assam).

APPOINTMENT OF CONSY/SFWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR).

1. You are hereby employed in this Headquarters for the subject post at daily wages basis (Casual Labour) wef 01 Nov. 91 to 28 Jan 92 for the period of 89 days.
2. Your ~~xxx~~ services will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be Governed under the provisions of Govt. of India, Min of Def letter No. 83482/EC/G/Org/4(Civ) (a)/11604/D(Civ-II) dated 24 Dec. 73.

Sd/- Illegible.

(P. C. Singh)

Capt.

Administrative Commandant.  
For Station Commander.

Sd/- Illegible.

ex S/M.

(Ex JC-1385 Cw Sub-Major

B. N. Sarma.

Attchd  
Chile  
Adm.

Annexure - B-6.

Station Mukhyalaya  
Station Headquarters,  
Rangiya.

3004/1/Q.

30 Dec 92

To  
Mrs. Lalita Das,  
C/O. Late Bijoy Das,  
Vill. Sontala, P. S. Mirza,  
Dist - Kamrup (Assam).

APPOINTMENT OF CONSY/SEWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR).

1. You are hereby employed in this Headquarters for the subject post at daily wages basis (Casual Labour) wef 01 Jan 93 to 30 Mar 93 for the period of 89 days.
2. Your services will be terminated any time in case of any adverse report without notice.
2. Your services will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be governed under the provisions of R Govt. of India, Min. of Def. letter No. 83482/EC/G/Org./4(Civ) (a)/11604/D (Civ-II) dated 24 Dec 73.

Sd/- Illegible.  
( V.N. Thapar.)  
Colonel.

Administrative Commandant  
For Station Commander.

Copy to-  
K 321 Fd Sub-  
C/O. 99 APO. -

The abovenamed lady is directed to report to you for duties.

*Handwritten signature/initials*  
A.H. - A. S. -  
A. S. -  
A. S. -

Employed at 321 Pol <sup>A</sup>mb. Changsari

Personal No. NIL Pass No. 106/93

Name in full : Mrs. Lalita Das

/PHOTOGRAPH/

Height : 5' 2"

Sd/- Illegible

Name of installation : Stn Hqr. Rangiya

Sig of Issuing  
Officer Dt.

Type of Emp : Temp Conservancy/Sfwls

Visible Identification Marks

(a) A cut in the middle finger  
of left hand

Valid upto Sig of Secu-  
rity Offr

31 Mar 93

31 Jul 93

31 Dec 93

In lieu of IAFZ 3050

### Ministry of Defence

1. This pass/iden card is the property of the govt. of India and must be surrendered on termination of emp or on tfr.
2. It is NOT tfr and relates only to the person describe and for instl issued.
3. To protect it against damage and facilitate its recovery of if lost it should be carried in a self appraisal envelope.
4. Impersonation of the autho bearer of this docu or its destr alteration or tfr to another person are pena offence.
5. The loss of finding of this docu should be reported Stn. Hq., Rangiya (To be filled up by issuing authority)

Services Civ pers already in possession iden card with photographs need NOT have another photo on the card. Th may be issued to Civil Govt. servant not paid from Der and not in possession of an iden card. A photograph will then be affixed to this docus.

*Attested  
by  
[Signature]  
[Signature]*

Annexure - B-8.

GOVERNMENT OF ASSAM  
DEPARTMENT OF LABOUR AND EMPLOYMENT  
EMPLOYMENT EXCHANGE,  
RANGIA.

No. ORG.8/92/3013-83. Dated Rangia, the 7th Sept/92.

To

Shri Jatin Baro,  
Vill. Bonhgaoon, P.O. - Rangia,  
Dist. Kamrup, Assam, Regd. No. 2383/86.

You are hereby advised to report to the Col. Adm. Comdt. for Stn. Odr. Ex-Station Head Quarter, Chepti, Rangia, for interview/test etc. on 8.9.92 at 10 a.m. for the post of Safaiwalas along with your all original Certificate in respect of age, Qualification, Caste, etc. and Employment Exchange Registration Card, X-10R.

T-A./D.A. is not admissible.

Sd/- Illegible.

7.9.92.

(P. C. Sama),  
Asstt. Employment officer,  
Employment Exchange, Rangia.

Copy for favour of your kind consideration and necessary action.

The Col. Adm. Comdt. for Stn. Cdr. Station Head Quarter, Chepti, Rangia, with reference to his letter No. 3004/1/Q/Emp-29.8.92.

Sd/-

(P. C. Sama),  
Asstt. Employment Officer,  
Employment Exchange, Rangia.

Attached  
@hile.  
Adv

Annexure - ~~Ex~~ B-9.

Station Mukhyalaya,  
Station Headquarters,  
Rangiya.

3004/1/Q(Emp) .

... Sep 92.

To  
Shri Jatin Ch. Boro,  
Vill. Bargaon, P.O. Rangia,  
Dist. - Kamrup (Assam) .

APPOINTMENT OF CONSY/SEWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR) .

1. You are hereby employed in this Headquarters for the subject post at daily wages basis (Casual Labour) wef. 08 Sep. 92 to 05 Dec. 92 for the period of 89 days.
2. Your services will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be governed under the provisions of Govt. of India, Min. of Def letter No. 83482/EC/G/Org/4(Civ) (a)/11604/D (Civ-II) dated 24 Dec 73.

sd/- Illegible.

(V.N. Thapar) ,  
Colonel.  
Administrative Commandant.  
For Station Commander.

*Attested  
Chh  
Adv*

## TEMPORARY PASS : CIVILIAN

1. Personal Number - Nil Pass No. 44
2. Name in Full - Shri Roshish Ali /Photograph/
3. Height/Age - 161 cms., 22 years
4. Visible identification marks
  - (a) A black mole in the middle of the neck
  - (b) A black mole in the middle of the chest a little to the left

Signature of the individual

Sd/-

Left Thumb Impression - St

Pass Valid upto

01 Oct 81 to 31 Jan 88

Sd/- Illegible

/Seal/

Col. Adm. Comdt.  
for Stn Cdr 20.10.87

Atty-Ad  
Cdr  
Sd/-

Annexure - XXX B-11.

Field Supply Depot ASC,  
Rangiya.

319/Gen/ST-12.

14 Dec 87.

Shri Rahish Ali,  
Consy Safaiwala.

TERMINATION OF SERVICE : CONSY SAFAIWALLAS.

1. You are hereby informed that your service has been terminated from 01 Jan 88 vide Stn. HQ letter No. 3014/1/Q dated 08 Dec. 87.

Sd/- Illegible.

(KPS Raghuvanshi),  
Lt. Col.  
Officer Commanding.

Copy to :-

Station Headquarters

Rangiya. - for info wrt their Hqs. letter No. 3014/1/Q dated 08 Dec 87 is confirmed.

881 Md Rahis Ali,  
15.12.87

*Attested  
Oshla  
A.V.*

Annexure - B-12.

GOVERNMENT OF ASSAM.

DEPARTMENT OF LABOUR AND EMPLOYMENT :: DEPARTMENT

EMPLOYMENT EXCHANGE:: RANGIYA.

X-10(R).

(Not an Introduction Card for Interview with Employees).

1. Name of Applicant- Kader Ali.
2. Date of Birth- 31.12.67.
3. Date of Registration- 21.10.91.
4. Registration Number. - 6599/91.
5. Qualification- - Class VI.
6. N.C.O. Code No. - X02-90.

Sd/- Md. Kadir Ali

(Signature of Applicant).

Next Renewal Date- 10/97.

Sd/- Illegible.  
12.9.95.

Seal - Asstt. Employment Officer,  
Employment Exchange, Rangia.

*Attended  
Chhler  
Adv.*



Annexure - B-13.

Station Mukhyalaya  
Station Headquarters,  
Rangiya.

3004/1/6 (Ran).

21 May 92.

To  
Name - Md. Kadir Ali,  
Vill. - Kaniha, P.O. - Kaniha,  
Dist - Kamrup (Assam).

APPOINTMENT OF CONSY/SFWLS AT DAILY  
WAGES BASIS (CASUAL LABOUR).

1. You are hereby employed in this Headquarters for the subject post at daily wages basis (Casual Labour) wef. 01 May to 19 Sept. 92 for the period of 89 days.
2. Your service will be terminated any time in case of any adverse report without notice.
3. Terms and conditions of your service will be governed under the provisions of Govt. of India, Min. of Def. letter No. 83482/EC/G/Org/4/(Civ) (a)/11604/D(Civ-II) dated 24 Dec 73.

Sd/- Illegible.

(V.N. Thapar),  
Colonel,  
Administrative Commandant  
for Station Commander.

*A. H. ...*  
*Colonel*  
*A.N.*

46

Ann -

B-14

5

TEMPORARY PASS

/Photograph/

PASS NO. : 99/92  
 Name in full : Md. Kadel Ali  
 Father's name : Late Chandmal Ali  
 Local Address : Vill Kaniha PO Kaniha PS Rangiya  
 : District Kamrup (ASSAM)  
 Identification Mark : (a) One black mole at the Rt side  
 of the nipple.  
 (b) One cut mark at the left leg  
 below knee.

Height : 192 CM Age 24 years

Employed as Consy Staff Falled upto 31 Jul 1993

Renewed upto 31 Oct 1992

Sd/- Illegible

Signature of the issuing Officer

INSTRUCTIONS

1. This Idem care is not transferable and is to be produced on demand. ~~Station Headquarters Rangiya and Police Station~~
2. In the event of its loss report will immediately be made to Station Headquarters Rangiya and police station.
3. This pass is the property of the Government of India and is to be returned immediately the servant cease to be employed.
4. This pass entitled the holders to be on the installation and estate for the purpose of working only.

*Accepted  
 (Signature)  
 Date*

Annexure - C.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH.

Original Application No. 248 of 1994.

Date of decision : This the 10th day of November, 1995.

The Hon'ble Justice Shri M. G. Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L. Sanglyine, Member (A).

1. Md. Syed Islam Ali (Ahmed),  
S/o. Syed Makib Ali,  
village - Nakul No. 2,  
P.O. - & P.S. Rangia  
District - Kamrup.

2. Syed Abdul Ali,  
S/O. Syed Azmad Ali,  
Village - Pub Kahan,  
P.O. & P.S. - Rangia,  
District - Kamrup.

3. Md. Taher Ali,  
S/O. Md. Momin Ali,  
Village - Bongali Kuchi.  
P.O. & P.S. - Rangia,  
District - Kamrup.

..... Applicants.

By Advocate Mr. B.K. Sharma.

-Versus-

1. Union of India,  
Through the Secretary, Govt. of India,  
Ministry of Defence,  
New Delhi.

2. Additional Director General of Staff  
Duties (SDGE) General Staff Branch  
Army Headquarters DHG.  
P.O. - New Delhi - 110011.

3.....

AH in hand  
Cable  
Adv

Annx. C.

3. Administrative Commandant  
Purav Kaman Mukhalaya  
Headquarters, Eastern Command,  
Fort William,  
Calcutta - 700021.
4. Administrative Commandant  
Station Headquarters,  
Rangiya,  
C/O. 99 A.P.O.                      ..... Respondents.
- By Advocate Mr. S. Ali, Sr. C. G. S. C.

ORDER.

CHAUDHARI J. (V.C.).

The 3 applicants have been engaged as Safaiwala/Mazdors in the Para Brigade under Station Headquarter of the Administrative Commandant and at the time of filing of the application they were posted at R.T. Brigade, Rangiya. They were employed through the Employment Exchange on daily wage basis at the rate of Rs. 30 per working day on No Work No Pay Basis. Their engagement was on periodic basis with artificial breaks. They were however disengaged finally from the respective dates mentioned in Para 6.vi of the application. Presently they are out of employment.

2. The applicants seek a direction to the respondents to re-appoint them with all consequential benefits including monetary benefits from the respective dates of engagement and to pay them regular salary and allowances in the appropriate scale from the date of engagement. The applicants

contend.....

*Att. to  
Chd  
A.W.*

Annx. C.

contend that they have worked for more than 240 days and they have therefore become eligible to be regularised in Group D posts.

3. The respondents contend that the service of the applicants was on casual basis and neither they are entitled to claim regularisation as a matter of right nor to claim regular pay scale. It is also their contention that there are no regular posts authorised in the field units and that is why the applicants were appointed on casual basis and cannot be regularised against any posts. The respondents therefore urge that the application may be dismissed. Mr. S. Ali, the learned Sr. C.G.S.C. for the respondents reiterated these submissions.

4. Similar question arose for our consideration in O.A. 56/94 decided on 19.9.1995 and prior thereto in O.A. 264/93 decided on 5.9.1995. Since the case of the present applicants is similar to those applicants and as the contentions of the parties are also same as in those applications it is not necessary to repeat those reasons once again and it would be sufficient to pass an order similar in nature in the instant application also. Mr. B.K. Sharma submitted that according to his instructions there are posts lying vacant at places other than Rangiya and that there should be no difficulty for the respondents to regularise the applicants ~~work on casual basis~~ and that the applicants would not

insist.....

Added  
while  
Adm.

Annx. C.

insist for posting at Rangiya but are willing to accept appointment elsewhere where the vacancies are available. He also submitted that the benefit of the scheme for regularisation of casual labourers is also required to be considered.

5. Mr. Ali, Sr. C.G.S.C. submits that according to his instructions there are no posts presently available. We would only say in this connection that if there are any posts available not necessarily at Rangiya but at other places it would be open to the respondents to sympathetically consider whether the applicants may be regularised against those posts.

Subject to the above observations following order is passed:

1. The respondents are directed to consider extending the benefit of Casual Labourers (Grant of Temporary Status and Regularisation) Scheme 1993 of the Government of India and benefit of guidelines under O.M. dated 7.6.1988 to the ~~applications~~ applicants and the question of conferring temporary status on them and thereafter regularisation against the posts as may be available subject to their eligibility and availability of posts wherever available.
2. The respondents No. 3 & 4 may, if necessary, seek sanction for the posts to enable consideration of regularisation of the applicants if they are otherwise found eligible for the same under the Scheme.

Attested  
Chula  
ASH

3.....

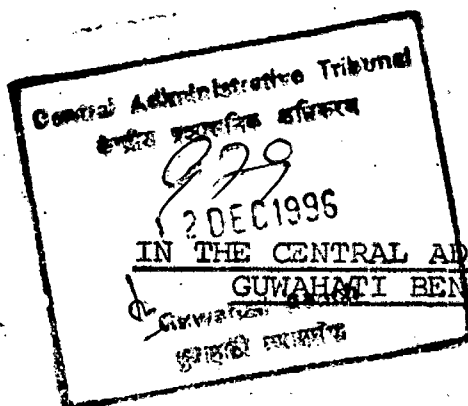
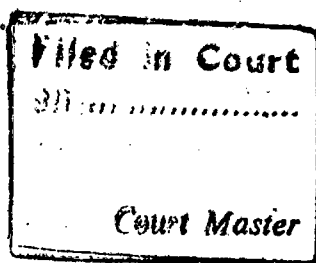
3. The circumstance of disengagement of the applicants may be considered in the light of the Scheme and guidelines respectively if applicable as stated above.
4. The respondents to examine the cases of the applicants in the light of above directions as expeditiously as possible but in any case within a period of three months from the date of receipt of this order and intimate their decision to the applicants accordingly.
5. The question of consequential benefits, if any, available to the event of their being considered for regularisation may be extended to them.
6. The respondents may not confine their consideration in respect of the applicants for the aforesaid purpose only at Rangiya Field Station but may consider if they can be accommodated at any other place.
7. It will be open to the respondents to offer casual engagement to the applicants when possible.

The O.A. is disposed of in terms of the aforesaid directions. No order as to costs.

Sd/- VICE CHAIRMAN.

SD/- MEMBER (ADMN).

*Attended  
Chula  
A.W.*



In the Matter of :-

O.A. No. 108/96

Shri Tajnur Ali and 7 Others

-VERSUS-

Union of India & Others

-And-

In the Matter of :-

Written statements submitted by the  
Respondents No. 1 to 4.

WRITTEN STATEMENTS :-

The humble Respondents submit their  
Written statements as follows :-

I, Major R K Kochhar, Officiating Administrative  
Commandant, Station Headquarters, Rangiya, do hereby  
solemnly affirm and say as follows :-

1. That I am the Officiating Administrative  
Commandant, Station Headquarters, Rangiya and Respondent  
No.4 in the above case. I am acquainted with the facts  
and circumstances of the case. I have gone through a  
copy of the application served on me and have understood  
the contents thereof. Save and except whatever is  
specifically admitted in this written statements, the  
contentions and statements made in the application may  
be deemed to have been denied. I am competent and  
authorised to file the written statement on behalf of  
all the respondents.

Filed by:

Shankarab  
10/12/96  
Dr. Chandra Shekhar Mishra, Advocate  
Central Administrative Tribunal  
Guwahati Bench at Guwahati

Received  
@ Shri  
Adv.  
12-12-96



2. That with regard to statements made in Paragraphs 3,4 and 5 of the application, the Respondents have no comments on them.

3. That with regard to the Statements made in Paragraph 6.1 of the application, the Respondents submit that the applicants employed on daily wages for work which of casual, seasonal or intermittent nature. For that they have been paid daily narrik rate as fixed by Labour Commissioner of Assam from time to time. The requirement of such applicants decreases as and when field units move out for their operational commitments or other reasons. Most of the applicants were employed for carrying out conservancy and sanitation duties and also cleaning and maintenance of area outside unit lines. Conservancy Safaiwalas are not authorised to carry out other miscellaneous works mentioned in the application. Rangiya, Changsari and Tamulpur are field stations and the applicants have been engaged to carry out conservancy tasks outside unit lines only and not the entire camp areas. It is incorrect to say that three Army Hospitals situated at Changsari and the applicants engaged for other routine nature of regular work. It is submitted that there is no Army Hospital at Changsari, only one minor field ambulance is located there which provides normal treatment to troops stationed at Changsari.

4. That with regard to the statements made in Paragraph 6.2. of the application, the Respondents beg to state that Rangiya, Changsari, Tamulpur and Darranga station under this Army Establishment are all field stations where no regular posts of Conservancy Safaiwalas have been authorised during that period. That's why, the applicants were employed by this HQ on daily wages basis for work which is of casual, seasonal and intermittent nature. It is submitted that in peace stations, Army units are staying on regular and permanent basis for which permanent infrastructure is created. However in case of Rangiya, Changsari, Tamulpur and Darranga, no permanent infrastructure has been created. In these stations only the field units are staying on temporary basis. The field units move out of these field stationed frequently for training and operational commitments, leaving no scope for engaging Conservancy Safaiwalas. Because of this peculiar situation, the applicants were engaged on daily wages basis for which they were paid at the daily narrick rate fixed and revised by the Regional Labour Commissioner, Ministry of Labour, Govt of Assam from time to time. Since no permanent post were authorised for station Headquarters, Rangiya, the services of the applicants cannot be regularised. Also, the works are in casual nature, seasonal and intermittent. Therefore, the applicants are not entitled any benefits like regular service benefit, pay scale, dearness allowance, house rent and other benefits under the scheme issued by the Government of India, Ministry of Defence from time to time. It is incorrect to say that they were being deprived from regular service benefit. It is also submitted that the case of these applicants have become time barred.

5. That with regard to the statement made in Paragraph 6.3 of the application, the Respondents beg to state that the applicants were engaged on daily wages basis depending upon the actual requirement on ground and they were disengaged when their services were no longer required subject to the number of field units remaining in the said field stations. It is submitted that none of these safaiwalas as mentioned in the application have completed continuous prescribed limit for the posts. These applicants were engaged on daily wages basis as no regular posts were authorised in Peace Establishment of Station Headquarters Rangiya. Therefore, no other scope is left when field units move out from the station. Thus the reasons for termination were well known to the individuals. It is incorrect to say that they have acquired valuable as well as legal right for appointment in the existing and future vacancies of Conservancy Safaiwalas. It is clearly seen from the termination as stated by the applicants themselves that they have disengaged from service since long past and as such it is not justifiable for re-appointment in the existing and future vacancies due to present prevailing circumstances.

6. That with regard to the statement made in Paragraph 6.4 of the application, the Respondents beg to state that it is incorrect to say that the applicants repeatedly approached the Station Headquarters, Rangiya for appointment in the existing vacancies. It is submitted that Station Headquarters, Rangiya and its satellite stations are field stations and no regular vacancies were authorised in this Headquarters for re-appointment prior to their termination. It is submitted that the applicants were engaged on stop gap basis and was purely temporary and they were

disengaged on genuine grounds as and when no longer required. Therefore, the applicants neither entitled re-appointment and nor any consequential service benefits, in the existing and future vacancies of Conservancy Safaiwalas under Station Headquarters, Rangiya.

7. That with regard to statements made in paragraph 6.5 of the application, the Respondent beg to state that none of the applicants reported to this Station Headquarters for re-appointment and nor any conservancy safaiwalas appointed by this Station Headquarters. It is incorrect to say that immediately after receipt of the lawyer notice, the authorities of the Station Headquarters have recruited nearly 20 Conservancy Safaiwalas on temporary basis. It is submitted that due to strict instructions issued by the Competent authorities for such employment of casual workers on daily wages basis and due to financial crunch, this Headquarters have no scope and additional funds for such employment. It is once again submitted that the applicants were engaged purely on temporary daily wages depending upon the actual requirement on ground. Therefore, at this belated stage they have no legitimate claim for a re-appointment on temporary or regular basis.

8. That with regard to statement made in Paragraph 6.6 of the application, the Respondents beg to state that the conservancy safaiwalas working in the state of Arunachal Pradesh must have been appointed on regular basis based on the regular posts authorised in the respective Peace Establishment of the concerned department. It is submitted that applicants were engaged as casual safaiwalas under station Headquarters, Rangiya as no regular posts of

Conservancy Safaiwalas were authorised in its Peace Establishment being field station. The applicants were disengaged on genuine grounds which was well known to the applicants.

9. That with regard to the statement made in paragraph 6.7 of the application, the Respondents beg to state that the letters mentioned by the applicants are mostly telegrams. Copy of the available telegrams are enclosed as Annexure 'A' to 'D'. ~~For~~ Remaining letter and telegrams have not been received. Therefore, the Hon'ble Tribunal be pleased to direct the applicants to give correct references so that the same could be produced before the Hon'ble Tribunal. It is agreed that the higher authorities have issued Administrative instructions regarding regularisation of casual conservancy safaiwalas subject to fulfilling the conditions that they were employed against regular posts which were created prior to 3rd January 1984 based on the recommendations of a Station Board of Officers. As submitted earlier, Rangiya and its satellite stations were not authorised any regular posts of conservancy safaiwalas being field stations and hence the applicants are not entitled to be regularised in service at this belated stage.

10. That with regard to the statement made in Paragraph 6.8 of the application, the Respondents beg to state that the proper service records of the applicants have not been maintained as they were engaged on daily wages basis and the meagre staff authorised to Station Headquarters, Rangiya, is not geared to cope-up with the additional task involved in handling regular conservancy safaiwalas. No regular

posts of the said category were authorised in the Peace Establishment of Station Headquarters, Rangiya, a copy of which is enclosed as Annexure 'E'. It is submitted that the applicants have been engaged on as required basis and thereafter disengaged from service when their services were no longer required. Hence break in service cannot be justified as artificial break. It is submitted that no attempts were made to deprive the applicants from the regular service benefits. They were disengaged from service on genuine grounds when their services were not required. It is submitted that the nature of work for which the applicants were employed/engaged is not of permanent nature so far Rangiya and other said stations are concerned being field stations. The requirement of conservancy safaiwalas ceases as and when the field units move out of these field stations. It is submitted that temporary pass is issued to every civilian who were engaged on daily wages because of security reasons in field stations. Entry to each field units is restricted and no one whether military or civilian person is allowed to enter without a valid pass. It is submitted that the applicants are not entitled legally to be regularised at this belated stage due to case has been considerably delayed and the same has become time barred. They are also not entitled any consequential service benefits from the date of their initial engagement as they were engaged on casual daily wages basis.

11. That with regard to the statement made in Paragraph 6.9 of the application, the Respondents beg to state that the applicants have not been subjected to any hostile

discremination. It is submitted that the applicants were engaged on daily wages basis for field stations where no regular posts of conservancy safaiwalas authorised and accordingly they have been paid on daily narrick rate as fixed and revised from time to time by the Regional Labour Commissioner, Ministry of Govt of Assam. It is submitted that there has not been any infringement on the rights of the applicants as they were employed on casual on daily wages basis. Because of this peculiar situation of field stations, where no permanent infrastructure has been created and there is no conservancy and sanitation work once the field units moved out of these field stations. It is submitted that the applicants have been fully aware of this peculiar situation and they have been making efforts to seek regular jobs. Therefore, at this stage none of them have any legitimate right for appointment in station Headquarters Rangiya on field of conservancy duty.

12. That with regard to statement made in Paragraph 6.10 of the application, the Respondents submit that it is correct to say that services of applicants involved in O.A. No 264/94 and 265/94 have regularised. It is submitted that the regularisation of applicants involved in ibid OAs were done in accordance with the Hon'ble CAT decision and they continuously served for a long period even after finalisation of the case. In instant case, the applicants disengaged from service since long back since engagement were done on stop gap, temporary and daily wages basis. They were disengaged on genuine grounds as and when no longer required. Therefore, the applicants are neither entitled regularisation on existing vacancies nor as fresh recruits. It is totally incorrect to say that the authorities

recently in the month of May 96 recruited nearly 20 fresh conservancy workers. It is submitted that this HQ has not done such recruitment in the above period.

13. That with regard to statement made in Paragraph 6.11 of the application, the Respondents beg to state that the applicants involved in this joint application is dissimilar as for applicant involved in O.A. No 248/94 because in the instant case most of the applicants were disengaged from service during year 1993 and one during year 1987 and at least approximately 3 years have been passed, therefore at this belated stage none of the applicants are entitled for re-appointment and regularisation of their services.

14. That with regard to the statement made in Paragraph 6.12 of the application, the Respondent beg to state that the present case of the applicants is dissimilar to the cases quoted by them. In the present case the applicants have been engaged by the field stations for the field units which keep changing their location because of this peculiar situation, regular posts of conservancy safaiwalas were not created being field stations. Therefore, it is submitted that the applicants are not entitled to be regularised as they were disengaged from casual employment on genuine grounds as and when no longer required due to moving out of the field units. It is again submitted that the employment were on stop gap basis and purely temporary. Further the requirement of the job decreases as and when field units move out, as a result of which some of these posts cease to exist on expiry of period.



" The Hon'ble Supreme Court has ruled in Director IMD Vs Pushpa Srivastava (1992 21 ATC P. 3771) that the respondents had no right to continue in the post and to claim regularisation in service in the absence of any rule providing for regularisation after a specific period service, since appointments had been made temporarily on adhoc basis for fixed period.

15. That with regard to the statement made in Paragraph 6.15 of the application, the Respondents beg to submit that the representation sent by All India Defence Employees Federation, Pune has already been scrutinised and services of all eligible casual conservancy safaiwalas have been regularised except those who did not fulfil the conditions prescribed for the post and have left their casual job for long time back. It is submitted that the applicants mentioned in this O.A. have left their job since long back and the name were not reflected in the above representation that is clear indication that they were keeping their options open with a view to seek regular job. Therefore, at this belated stage, the application of the applicants does not deserve consideration for re-appointment and regularisation of their services, more so because it is time barred. It is submitted that, it is totally incorrect to say that the respondents did not take any steps to regularise the services of the applicants.

16. That with regard to the statement made in Para 6.14 of the application, the Respondents beg to state that the applicants can not be re-appointed and regularised as they were disengaged from service since long time back due to moving out of field units. It is submitted that the applicants cannot be re-appointed and more so their application have become time barred.

17. That with regard to the statement made in Para 6.15 of the application, the Respondents beg to state that the applicants are not entitled for re-appointment and regularisation of their services as they were engaged for casual job purely on temporary adhoc daily wages basis and no regular posts of conservancy safaiwalas were authorised being field stations.

18. That with regard to the statement made in para 6.16 of the application, the Respondent beg to state that the said cases of civilian Switch Board Operators are not applicable to the present case as the facts and circumstances are different. Therefore, the applicants involved in the present case are not entitled for re-appointment and regularisation as they were employed on casual daily wages basis and they disengaged on a genuine ground. More so, the case of applicants has become time barred because, they left their job since long time back.

19. That with regard to statement made in para 7 of the application regarding reliefs sought for, the respondents beg to state that the applicants are not entitled to any of the reliefs sought for at this belated stage as such the application is liable to be dismissed.

20. That with regard to the statement made in para 7 of the application, regarding grounds for relief, the Respondents beg to state that none of the grounds is, maintainable in law as well as in facts and as such the application is liable to be dismissed.

21. That with regard to the statements made in Para 8 of the application, regarding Interim Relief, the Respondents beg to state that in view of the facts and circumstances narrated above, the Interim Order is liable to be vacated.

22. That with regard to statements made in para 9 to 13 of the application, the Respondents have no comments on them.

23. That the Respondents crave leave of filing additional Written Statement if situation so demands.


24. That the Respondents submit that the application is devoid of merit and as such the same is liable to be dismissed.

.....

I, Major Rajinder Kumar Kochhar, aged 35 years working as Administrative Commandant Officiating, Station Headquarters, Rangiya do hereby solemnly declare that the statements made above are true to my knowledge, belief and information and nothing being superseded.

I sign this verification on this 14 th day of November, 1996 at Rangiya.



  
( Rajinder Kumar Kochhar )  
Major  
Officiating Administrative  
Commandant  
Station Headquarters, Rangiya

Annexure-'A'

/COPY/

PRIORITY

DTG : 231411

SRL NO 255036

From : EASTERN COMMAND (GS/SD)

To : HQ 51 Sub Area

Stn HQ Rangiya

Info : HQ 101 Area

UNCLAS, O 3144

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REGULARISATION OF SERVICES OF CASUAL CONSERVANCY OF STN  
HQ RANGIYA (.) REFER ARMY HQ NO C/60249/SD 6B AUG 13 (.)  
ENSURE COMPLETION REPORT IS FORWARDED BY 10 SEP 93 (.)  
HQ 101 AREA ONLY (.) COPY OF LETTER MAY BE OBTAINED FROM  
HQ 51 SUB AREA

-----

Sd/-x-x-x-x-x-x-

Checked by DSO

C.T.C.

May  
01/92  
Administrative Comm  
प्रशासकीय कमान्डेंट  
For Station Commander  
को स्टेशन कमान्डर

22  
66

Annexure-'B'

15

/COPY/

OP IMMEDIATE

DTG : 071005

SRL NO 095008

FROM : HQ 51 SUB AREA

TO : STN HQ, RANGIYA

UNCLAS O-3135

-----  
REGULARISATION OF SERVICES OF CASUAL CONSERVANCY SAFAIWALAS  
OF STN HQ RANGIYA (.) REFLR ARMY HQ LETTER 60249/SD 6B JUNE 08 (.)  
REQUEST FORWARD DETAILS REPORT BY 11 AUG 93 (.) IN THIS CONNECTION  
ALASO REFLR TELECON BETWEEN ADM COMDT AND OFFG COL GS THIS  
HQ OF DATE  
+ + + + - - - - -

Sd/-x-x-x-x-x-x-

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C.T.C.

Mai  
[Signature]  
Administrative Commandant  
प्रशासकीय कमान्डेंट  
For Station Commandant  
इले स्टेशन कमान्डर

Annexure-'C'

/COPY/

PRIORITY

DTO : 271520

SRL NO : 285015

FROM : 101 AREA

TO : 51 SUB AREA

STN HQ RANGIYA


UNCLAS O 3104

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REGULARISATION OF SERVICES OF CASUAL CONSERVANCY SAFAIWALAS OF  
STN HQ RANGIYA (.) CONFIRM RECEIPT OF EASTERN COMMAND SIG O 3144  
AUG 23 AND FWD REQUISITE INFORMATION TO THEM BY THE DATE  
WITH COPY TO THIS HQ (.) REQUEST ALSO FORWARD COPY OF INDARMY  
LETTER NO C/60249/SD 6B OF AUG 13  
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Sd/-x-x-x-x-

CHECKED BY DSO

C. T. C.

  
Administrative Commandant  
प्रशासकीय कमान्डेंट  
For Station Commander  
एले स्टेशन कमान्डर

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24 08  
Annexure 1D'

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PRIORITY

DTG : 281800

SRL NO 295035

FROM : HQ 51 SUB AREA

TO : STN HQ RANGIYA

UNCLAS O 3171

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REGULARISATION OF SERVICES OF CASUAL CONSERVANCY SAFAIWALAS OF  
STN HQ RANGIYA (.) REFER ARMY HQ LETTER NO C/60249/SD 6B AUG 13  
ENSURE COMPLETION REPORT IS FORWARDED BY SEP 06 (.) WITHOUT FAIL  
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Sd/-x-x-x-x-

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C. T. C.

Mai  
[Signature]  
Administrative Commandant  
स्थासकीय कमान्डेन्ट  
For Station Commander  
एने स्टेशन कमान्डर



/COPY/EXTRACT OF PEACE ESTABLISHMENT OF STATION HEADQUARTERS  
RANGIYAPE: IV/226/1946/4 Effective  
from 01 Jul 1990 to 30 June 1995PEACE ESTABLISHMENT

Details	Offrs	OR	NCs(E)	Civ
1	2	3	4	5
Rangiya				
Adm Comdt Class-I (Col) <del>XXXXXX(CD/CD)</del> <del>XXXXXX</del>	1	-	-	-
Clerks (CD/CD) ASC	-	3	-	-
Drivers (MT) ASC	-	2	-	-
Messenger	-	-	-	01
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No 79816/6/SD 6A dated 20 July  
1990C.T.C.

Maj

Colonel

कॉमन्डिंग ऑफिसर

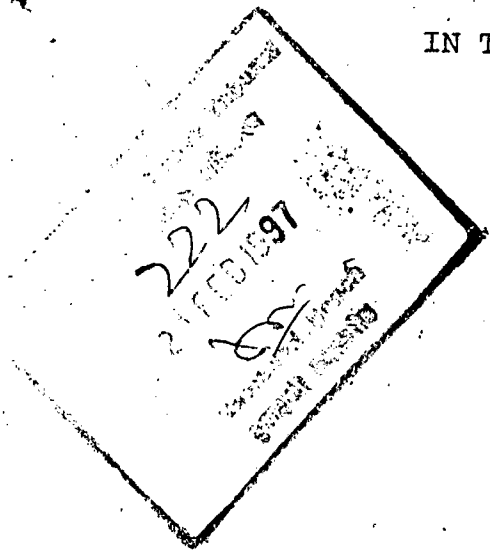
Administrative Command

प्रशासकीय कमान्डेंट

For Station Commander

जो स्टेशन कमान्डर

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI



In the matter of :

O.A. No. 168 of 1996

Shri Tajnur Ali and 7 Ors.

-versus-

Union of India & Ors.

-And-

In the matter of :

Rejoinder submitted by the  
Applicants.

The applicants above named most humbly and  
respectfully beg to state as under :

1. That with regard to the statement made in the paragraphs 3,4 and 5 of the written statement, the applicants deny the correctness of the same and further beg to state that the applicants were engaged against regular vacancies and the work entrusted to each of the applicants are of permanent nature. The services of the applicants were disengaged/terminated with an ulterior motive to frustrate the claim and legal rights of the applicants for regularisation of their services. Immediately after termination of their services, the respondents have

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recruited a large number of fresh casual conservancy safaiwala in the year 1993 and also regularised a large number of juniors who were working as casual conservancy safaiwala following decision of Court cases. The detail particulars of junior casual workers who were subsequently regularised are furnished hereunder :

<u>Sl. No.</u>	<u>Name of Juniors</u>	<u>Date of initial appointment</u>
1	Md. Habibur Rahman	20.04.1992
2	Sri Putul Das	January, 1991
3	Sri Phunu Barman	January, 1993
4	Md. Syed Islam Ali	1991
5	Sri Moniram Das	1.3.1991
6	Mdl Joynur Ali	1.6.1990
7	Sri Krishna Das	March, 1993
8	Syed Sanshad Ali	1.1.1990
9	Mrs. Saira Banu	1.10.1991
10.	Aysha Begum	1.7.1990
11	Md Mafiz Ali	09.03.1990
12	Md. Tajuddin Ahmed	01.12 07.1990
13	Sri Atul Chandra Kalita	02.06.1991
14	Minu Rajbangshi	August, 1991
15	Smt. Anima Das	1.6.91
16	Md. Maznoor Ali Ahmed	09.03.1990

The above named conservancy safaiwala and juniors to some of the applicants but their services were regularised. Therefore applicants are also entitled to be regularised against the available vacancies on priority basis.

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2. That with regard to the statements made in paragraphs 6,7,8,9 and 10 of the written statement the applicants deny the correctness of the same and further beg to state that the services of the applicants were ~~not~~ utilised for a long period and the ~~work~~ works entrusted with the applicants was of permanent nature but the service of the applicants were terminated with the sole intention to deny the benefit of regular service and other facilities available to the regular employees. In this connection it may be stated that on number of occasions the Army Headquarter given several instructions for regularisation of the casual workers serving under the Rangiya Station Headquarter. It would be evident from the Annexures A,B,C,D and E to the written statement annexed by the respondents, therefore non-regularisation of the service of the applicants as well as termination of service of the applicants is in total violation of instructions issued by the Headquarter 51 Sub Area. But the local administration at Rangiya did not take any action regarding regularisation of the service of the applicants and the same is categorically admitted by the respondents in paragraph 9 of the written statement. The case of the applicants ~~is~~ squarely covered by the instructions given by the Headquarter 51 Sub Area. Moreover for all civilian casual workers serving under the Government of India, Department of Personnel and Training also issued regularisation scheme of Casual workers vide Memorandum No.51016/2/90-Estt(C) dated 10.9.1993 scheme for grant of temporary status and regularisation of casual workers. This scheme has been formulated in accordance with the guidelines for recruitment of casual workers contained

in the office memorandum dated 7.6.1988. This scheme is called as "Casual Labourers" (grant of temporary status and regularisation) scheme of Government of India, 1993. As per the above scheme a casual worker who have rendered continuous service at least one year, which means that the casual worker must have been engaged for a period of at least 240 days (206 days) in the case of office observing 5 days week in a year, would be entitled to grant of temporary status and it is further stated in the scheme such conferment of the temporary status would be without reference <sup>d</sup> creation/availability of regular group D posts. The <sup>case</sup> ~~case~~ of the applicants also covered under the above scheme of regularisation made by the Government of India issued under Department of Personnel and Training letter No. 51016/2/90-Estt(C) dated 10.9.1993 with reference to ~~xxxxx~~ the Office Memorandum dated 7.6.1988. In this connection it may be stated that all the applicants have rendered more than 240 days casual service in a calender year. Therefore they are entitled to be regularised in terms of the aforesaid scheme and their termination of service is highly illegar, arbitrary, and unfair.

It may be stated that the application of the applicants is well within the time limit prescribed by the Administrative Tribunals Act 1985 as the further cause of action arises after regularisation of the fresh recruits who were subsequently appointed after submission of the representation of the applicants

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without considering the case of the applicants who have acquired a valuable and legal rights for regularisation under the scheme of regularisation issued by the Government of India under OM dated 7.6.1988 as well as 10.9.1993. In the month of October, 1996 also some of the casual workers who were subsequently recruited after the termination of service of the applicant have been regularised by the respondents. Therefore the present applicants are also entitled to be regularised.

A copy of the scheme for grant of temporary status and regularisation of casual worker dated 10.9.93 is annexed as Annexure 'D'.

3. That with regard to the statement made in paragraphs, 11,12,13,14,15,16,17, 18,19,20, 21, ~~and~~ 22,23, and 24 of the written statement the applicants deny the correctness of the same and further beg. to state that the similar grounds were also raised by the respondents in other similar~~ly~~ cases such as OA Nos. 248/94, 249/94, 228/93, 265/93, 56/94 and 100/96. However the Hon'ble Tribunal after careful consideration of their written statement and hearing the parties was pleased to hold that the applicants are entitled to be regularised for grant of temporary status against the exist~~ing~~ vacancies and if there is no vacancies available, the Hon'ble Tribunal was pleased to direct the respondents to move the higher authorities for obtaining sanctioning of vacancy and <sup>granted,</sup> ~~grant~~ temporary status to all the similarly situated applicants in the O.A. Nos. 248/94, 249/94, 265/93, 228/93,

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100/96 and 56/94.

A copy of the Judgment & Order passed in O.A. No. 228/93 on 28.11.1995 and copy of the Judgement & Order passed in O.A. No 264 of 1993 on 5.9.1995 are annexed as Annexure E & F respectively.

4/ Under the facts and circumstances stated above the application is deserves to be allowed with costs.

V E R I F I C A T I O N

I, Shri Narendra Chandra Kalita, Son of Sri Prasanta Kalita, resident of village Baranhate, P.O. Baranhati, P.S. Kaya, District-Kamrup, applicant No.3 in the Original Application hereby authorised to verify the statements made in paragraphs 1 to 4 of the Rejoinder and I hereby verify and declare that the statements made in paragraphs 1 to 4 are true to my knowledge and belief.

And I sign this verification today on 14.2.1997 at Guwahati.

Shri Narendra Kalita.

Signature



GOVT. OF INDIA, DEPTT. OF PER. & TRG. NO. 51016/2/90-Estt  
(C) dated 10.9.1993.

Scheme for Grant of Temporary Status & Regularisation  
of Casual Workers.

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The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government Offices were issued vide this Department's O.M. No. 48014/2/86-Estt (C) dated 7.6.1988 (Sl. No. 310 of Swamy's Manual, 1986). The policy has further been reviewed in the light of the Judgement of the CAT, Principal Bench, New Delhi, delivered on 16.2.1990, in the writ petition filed by Shri Raj Kamal and others V. Union of India and it has been decided that while the existing guidelines contained in O.M dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year or continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the scheme as appended.

2. Ministry of Finance, etc. are requested to bring the scheme to the notice of appointing authorities under their administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in OM dated 7.6.1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

APPENDIX

Department of Personnel & Training, Casual Labourer (Grant of Temporary Status and Regularisation) Scheme.

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1. This scheme shall be called "casual Labourers (Grant of Temporary status and Regularisation) Scheme of Government of India 1993".
  2. This scheme will come into force with effect from 1.9.1993.
  3. This scheme is applicable to casual labourers in employment of the Ministries/Departments of Government of India and their attached and subordinate offices, on the date of issue of those orders. But it shall not be applicable to casual workers in Railways, Department of Telecommunication and Department of Posts who already have their own schemes.
  4. Temporary Status
    - i. Temporary status would be conferred on all casual labourers who are in employment on the date of issue of this OM and who have rendered a continuous service of at least one year, which means that they must have be engaged for a period of at least 240 days (206 days in the case of offices observing 5 days week).
    - ii. Such conferment of temporary status would be without preference to the creation/availability of regular Gr.D posts.
    - iii. Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay of need basis. He may be deployed anywhere within the recruitment unit/territorial circle on the basis of availability of work.
    - iv. Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.
  5. Temporary status would entitled the casual labourers to the following benefits :-

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- i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular Gr. 'D' official including DA, HRA and CCA.
  - ii) Benefits of increments at the same rate as applicable to a Gr. 'D' employees would be taken into account for calculating pro rata wages for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year from the date of conferment of temporary status.
  - iii) Leave entitlement will be on a pro rata basis at the rate of one day for every 10 days of work. Casual or any other kind of leave, except maternity leave, will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on their quitting service.
  - iv) Maternity leave to lady casual labourers as admissible to regular Gr. 'D' employees will be allowed.
  - v) 50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.
  - vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated on par with temporary Gr. 'D' employees for the purpose of contribution to the General Provident Fund, and would also further be eligible for the grant of Festival Advance, Flood

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Advance on the same conditions as are applicable to temporary Gr. 'D' employees, provided they furnish two sureties from permanent Government servants of their Departments.

vii) Until they are regularised, they would be entitled to Productivity Linked Bonus/Ad-hoc bonus only at the rates as applicable to casual labourers.

6. No benefits other than those specified above will be admissible to casual labourers with temporary status. However, if any, additional benefits are admissible to casual workers working in Industrial establishments in view of provisions of Industrial Disputes Act, they shall continue to be admissible to such casual labourers.

7. Despite conversion of temporary status, the services of a casual labourer may be dispensed with by giving a notice of one month in writing. A casual labourer with temporary status can also quit service by giving a written notice of one month. The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

8. Procedure for filling up of Gr. 'D' posts :-

i) Two out of every three vacancies in Gr. 'D' cadres in respective offices where the casual labourers have been working would be filled up as per extant recruitment rules and in accordance with the instructions issued by the Department of Per & Trg. from amongst casual workers with temporary status. However, regular Gr. 'D' staff rendered surplus for any reason will have prior

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claim for absorption against existing/future vacancies. In case of illiterate/future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post, regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They would be allowed age relaxation equivalent to the period for which they have worked continuously as casual labourer.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as he was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.
10. In future, the guidelines as contained in this Department's OM dt. 7.6.1988 should be followed strictly in the matter of engagement of casual employees in Central Government Offices.
11. Department of Per. & Trg. will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 264 of 1993

Date of Order : This the 5th day of September, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman

Shri G.L. Sanglyine, Member (Administrative).

1. Shri Nripen Das
  2. Md. Khalil Ali
  3. Shri Sunil Das
  4. Shri Gora Ram
  5. Shri Umesh Das
  6. Shri Chaitra Lohar
- ..... Applicants

By Advocate Shri J.L. Sarkar  
-versus-

1. Union of India  
through Secretary to the Govt. of India,  
Ministry of Defence, New Delhi.
2. Additional Director General of Staff Duties (SDGB)  
~~Staff Duties~~ General Staff Branch,  
Army Headquarters, DHG,  
New Delhi-1100011.
3. Administrative Commandant  
purv Kaman Mukhalaya  
Headquarters, Eastern Command  
Fort William, Calcutta-700 021.
4. Administrative Commandants,  
Station Headquarters, Rangia,  
C/o 99 A.P.O.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.

O R D E R

CHAUDHARI J. (V.C.)

The six applicants who are employed as Conservancy/  
Safaiwala under the Station Headquarter, Rangiya (Assam) on  
differentials since 1982 onwards on daily wage basis at the  
rate of Rs. 30.20 per working day on no work no pay basis,  
claim that having regard to the length of service for which  
they have been engaged on casual basis they have become  
eligible for being regularised but the respondent not having

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done so injustice is done to them and therefore they have approached the Tribunal by the instant O.A. seeking a direction to the respondents to regularise their services with all consequential service benefits including monetary benefits from the respective dates of engagement fixing pay at the minimum of the scale and not to terminate their services till regularisation.

2. The respondents contend that the services of the applicants cannot be regularised as regular posts are not authorised to the field station and they are also not entitled to regular salary and other allowances as they were engaged purely on daily wage basis depending on the actual requirement on ground and they were removed from services when not required subject to number of field units remaining in the field station. They further contend that although the higher authorities have issued administrative instructions regarding regularisation of Conservancy Safaiwalas subject to fulfilling the conditions and they were employed against regular posts which were created prior to 3.1.1984 based on the recommendations of a Station Board of Officers but since Rangiya and other stations are not authorised any regular posts of Conservancy Safaiwalas being field station, the applicants are not entitled to be regularised. Thus according to the respondents since the employment of the applicants is not of permanent nature at Rangiya the applicants are not entitled to get the reliefs sought by them. According to them the applicants have been engaged on Stop gap basis and are purely temporary and that the requirement of the job decreases as and when field unit is left out of the field stations. Some of those posts ceased to exist resulting in disengagement of the casual employees like the applicants. The respondents have stated that the services of the applicants were no longer required moving out of field units and they were therefore disengaged.

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3. It however appears from the application that on the date on which it was filed i.e. 20.12.1993 the applicants were engaged and by interim order dated 22.12.95 the Respondents were directed not to disturb their engagement as casual employees, The applicants therefore appear to have continued to be engaged till now.

4. Mr. Sarkar, the learned counsel for the applicants with due amount of justification submitted that having regard to the welfare policy of the State and the view expressed by the Hon'ble Supreme Court time and again in several cases the respondents cannot avoid to regularise the services of the applicants on the ground that there are no posts since factually at all the times the services of the applicants have been needed. Our attention is pointedly drawn to the observations of the Supreme Court in Rajesh Kumar Soni & Ors. Vs. Ministry of Environment & Forest and Wild Life & Ors. (1992) 21 ATC 401 wherein regularisation was directed in respect of employees who had been working for more than 4 to 5 years as that gave the impression that there was regular need for the employees. This exactly is the submission of Mr. Sarkar as noted above. Our attention has also been drawn to the decision of the Supreme Court in Rattan Lal & Ors. Vs. Lt. Governors & Ors(1992) 21 ATC 402 in which also the Supreme Court was pleased to direct the Delhi Administration to absorb the casual employees under the scheme for absorption of casual labourers made effective from October, 1988.

5. Mr. Sarkar places strong reliance upon the order of this Tribunal in O.A. 228/93 dated 28.7.94 relating to similar Conservancy staff as the applicants at the same Headquarter,

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namely, Rangiya under the present respondents. It was held that the break in service of those applicants was artificial and that cannot be encouraged being disadvantageous to the casual labourers and was likely to defeat their rights and having regard to the continuity of their service and the minimum pay scale enunciated by the Supreme Court in various decisions the applicants (in that case) were entitled for regularisation but only after obtaining sanction for the posts. The respondents were however, directed to pay those applicants the minimum of the appropriate pay scale of class IV category as Safaiwalas. The respondents were consequently directed to make communication with the Headquarter to obtain sanction for regularisation of those applicants within a period of six months and not to terminate their services till they were regularised and in the meantime to pay them the minimum of the pay scale. The respondents accordingly moved for obtaining sanction and Mr. Sarkar now states that according to his instructions some of those applicants and some other Safaiwalas have been regularised. According to the learned counsel therefore similar course may be directed to be adopted in respect of present applicants.

6. The facts of the instant case reveal that the services of the applicants are being availed ever since 1983 onwards. Having regard to the preponderance of judicial opinion and the welfare policy of the State we are obliged to take the view that the applicants deserve to be considered for regularisation. That however cannot be directed straight away unless there are posts available against which their regularisation can be considered. The posts against which the applicants are engaged are not regular sanctioned posts as stated in the written statement. Even in the order in O.A. 228/93 it was noticed that

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the regularisation was dependent upon sanction of the posts. It is therefore clear that unless posts are sanctioned by the Government of India, Ministry of Defence, it would not be possible to regularise the applicants. We do not think that it lies within our province to direct the Government of India to sanction the posts under all circumstances. However, even though the power is exclusively vested with the Central Government of India to sanction the posts under all circumstances. However, even though the power is exclusively vested with the Central Government to do so, we have no reason to believe that it will not be exercised suitably having regard to the overall circumstances particularly the view expressed by the Hon'ble Supreme Court from time to time and the decision in O.A. 228/93 while considering the question of sanctioning further posts against which the applicants can be regularised.

7. The Government of India have framed a Scheme for grant of temporary status and Regularisation of casual workers namely, Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1993" for persons on daily wages basis in Central Government offices. We have no reason to think that it is not applicable to the workers under the respondents. The applicants therefore ought to be considered thereunder. If the scheme is not applicable it is high time that it is extended to workers under the respondents or similar scheme is prepared for them.

8. Mr. A.K.Choudhury, the learned Addl. C.G.S.C. submitted on behalf of the respondents that the Army Headquarters/Ministry of Defence have not found it essential to sanction regular posts at the field station, Rangiya and in the absence of such sanction the question of regularisation of the applicants does not arise. He further submitted that as the engagement of the applicants is on daily wage basis they cannot claim

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to be paid at the pay scale of class IV category. We have dealt with the first aspect in the foregoing discussion. On the second aspect we follow the earlier decision (in O.A. 228/93) and hold that on equitable grounds the applicants should be paid wages at the minimum of the pay scale of Grade IV employee and if sanction be necessary that should be accorded early.

9. In the result following order is passed :

i) The respondents are directed that if the posts of Conservancy/Safaiwalas have been sanctioned by this time for Station Headquarter, Rangiya then the regularisation of the applicants be done in accordance with the rules against those posts.

ii) If there are no sanctioned posts then we direct the respondents No. 3 and 4 to move the respondents 1 and 2 for sanctioning the posts of Safaiwalas at Rangiya Station Headquarter to facilitate the regularisation of the applicants.

iii) Alternatively we direct that the benefit of 1993 scheme (mentioned above) may be considered to be extended to the applicants or steps may be taken to prepare a similar scheme for the employees like applicants serving under the respondents if the said scheme is not found applicable to them and extend the benefit of the scheme as may be framed to the applicants.

iv) We recommend to the respondents to take the aforesaid steps as early as practicable and extend the benefit thereof to the applicants to the extent possible. It is hoped that the respondents will take the aforesaid steps within a period of six months from the date of communication of this order and deal with the question of regularisation of the applicants in the light of the same.

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v) In order to enable the respondents to consider taking the above steps the interim order dated 22.12.93 is hereby extended till 31.3.1996.

vi) The respondents are also directed to pay the minimum of pay scale to the applicants from the date of filing of the O.A. i.e. 20.12.93 till date and continue to pay the same during the currency of the interim order. Arrears from 9.12.93 of the difference of pay upto the end of September, 1995 to be paid and future payment to be continued from 1st October 1995 at the rate of minimum of the pay scale for Class-IV category of Safaiwalas.

O.A. is disposed of in terms of the aforesaid order. No order as to costs.

Sd/- VICE - CHAIRMAN

Sd/- MEMBER (ADMN)

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CIV.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWHATI BENCH

Original Application No. 265 of 1993

Date of Order : This the 28th day of November, 1995.

Justice Shri M.G. Chaudhari, Vice Chairman

Shri G.L. Sanglyine, Member (Administrative)

1. Md. Issa Ali
2. Shri Pradeep Das
3. " Kartik Das
4. " Manipam Das
5. Md. Jainur Ali
6. " Zakir Hussain
7. Shri Lunek Ch. Boro

..... Applicants.

All the applicants are working as Conservancy/Safaiwala under Station Headquarters, Rangiya, Assam.

By Advocate Shri M. Chand.

-versus-

1. Union of India  
through Secretary, Govt. of India,  
Ministry of Defence,  
New Delhi.
2. Addl. Director General of Staff  
Duties (SDGE) General Staff Branch  
Army Headquarters, DHG,  
B.O. New Delhi-110011.
3. Administrative Commandant,  
Purv Kaman Mukhyalaya,  
Headquarters, Eastern Command  
Fort William,  
Calcutta-700021.
4. Administrative Commandants,  
Station Headquarters, Rangiya  
C/o 99 APO

..... Respondents.

By Advocate Shri Golap Sarma, Addl. C.G.S.C.

O R D E R

CHAUDHARI J (V.C.).

The 7 (seven) applicants who have been engaged periodically on casual basis on daily wage as Conservancy/Safaiwala at the Station Headquarters, Rangiya under the respondent No. 4, seek a direction to the respondents to reappoint and regularise

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their services as Class-IV employees. The O.A. was filed on 20.12.93. Subsequent thereto the applicants have been re-engaged with effect from 1.8.94 as Casual Labourers. The case of the present applicants is similar to the applicants who were concerned in O.A. 264/93 decided on 5.9.95.

2. The respondents have filed written statement and the contentions raised are similar as were raised by them in the above mentioned O.A. After examining the various aspect of the matter we have made certain directions to the respondents for considering whether the benefit of 1993 Scheme "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India" can be extended to the applicants and have also directed to pay minimum pay scale. Mr. Chanda submits that the applicants will be satisfied if similar orders will be passed in the instant O.A. Mr. G.Sarma, the learned Addl. C.G.S.C. submits to the orders .

3. In the result following order is passed :

i) The respondents are directed that if the posts of Conservancy/Safaiwalas have been sanctioned by this time for Station Headquarter, Rangiya then the regularisation of the applicants be done in accordance with the rules against those posts.

ii) If there are no sanctioned posts then we direct the respondents No. 3 and 4 to move the respondents 1 and 2 for sanctioning the posts of Safaiwalas at Rangiya Station, Headquarter to facilitate the regularisation of the applicants.

iii) Alternatively we direct that the benefit of 1993 Scheme (mentioned above) may be considered to be extended to the applicants, if found eligible or steps may be taken to prepare a similar scheme for the employees like applicants

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serving under the respondents if the said scheme is not found applicable to them and extend the benefit of the scheme as may be framed to the applicants.

iv) We recommend to the respondents to take the aforesaid steps as early as practicable and extend the benefit thereof to the applicants to the extent possible. It is hoped that the respondents will take the aforesaid steps within a period of six months from the date of communication of this order and deal with the question of regularisation of the applicants in the light of the same.

v) The respondents are also directed to pay the minimum of pay scale to the applicants from the date of their present re-engagement i.e. 1.8.94 till date. Arrears from 1.8.1994 of the difference of pay upto the end of November, 1995 to be paid and future payment to be continued from 1st December, 1995 at the rate of minimum of the pay scale for Class-IV category of Safaiwalas.

O.A. is disposed of in terms of the aforesaid order. No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

*Attested  
@  
Adv.*